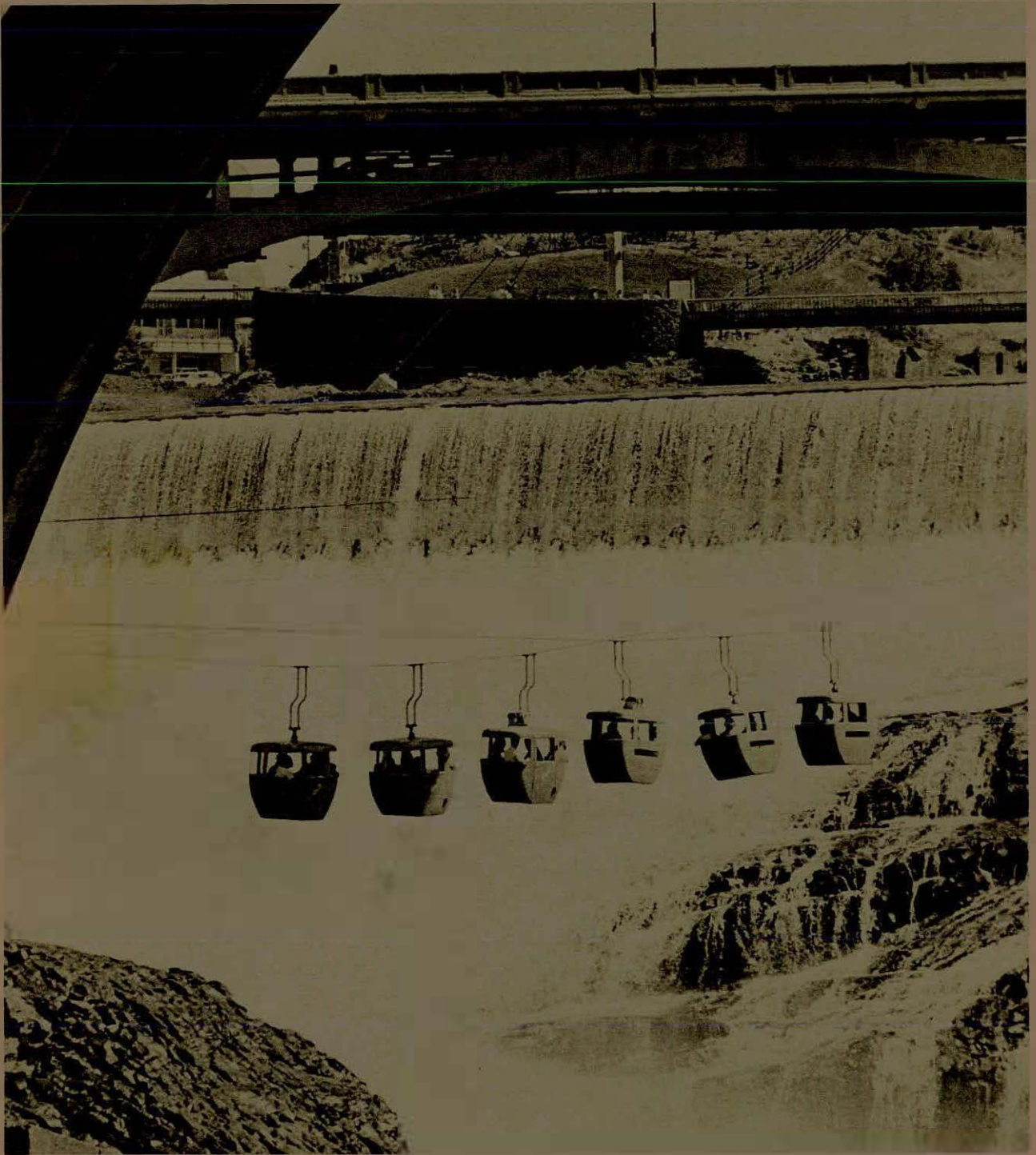


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# WASHINGTON STATE BAR NEWS

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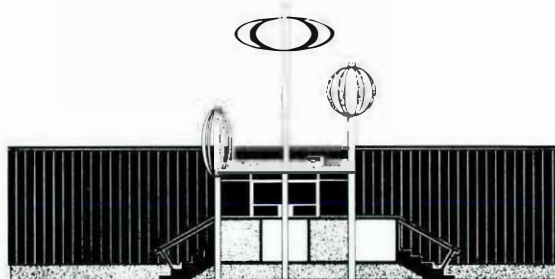
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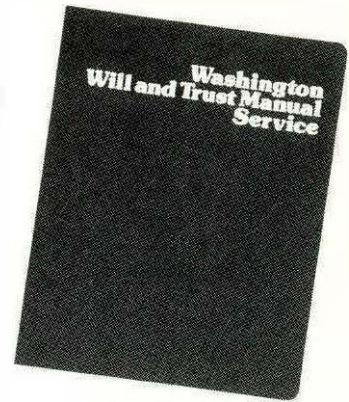
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Published by

WASHINGTON STATE BAR ASSOCIATION  
505 Madison Street Seattle, Washington 98104

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

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Published monthly. Subscription price is \$5.00 a year, 50c a copy. Subscription included with active membership. Back issues \$1 per issue.

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Volume 30, Number 4  
April, 1976

## WASHINGTON STATE BAR NEWS

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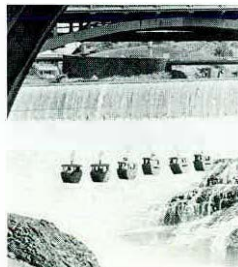
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Cover photo: Gondola ride traverses Spokane Falls in Spokane, 1976 Convention site.

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**Fees Inadequate**

Editor:

In going over the proposed Washington Lawyers Service plan, I would like to make the following observations.

I think the provisions as to fees for lawyers are entirely inadequate. This of course goes along with actions by the various bar associations in the past several years whereby lawyers services are being eliminated or procedures have been adopted which dispense with a great deal of work they formerly did. Also fees have been reduced more and more and many of the services are being done for nothing or for very little.

I suppose the lawyers in general must feel they have a bad public image of themselves and are trying to remedy it. We do not find the members of the medical association cutting their fees or seeking ways to eliminate their services.

In addition to the above it would appear to me that this panel device will primarily benefit lawyers who have access to trade union clients or possibly those firms that represent large corporations with many employees.

Finally I failed to see why the Board of Directors should consist of seven non-lawyers and six lawyers. If there is to be any confidentiality about fees paid by the panel, you lose it right there.

Really I do not feel that the bar in general has been fully made aware of all of these things and I think the attempt to set up the panel is premature. I think there should be a great deal more dis-

cussion as was suggested by one of the members of the young lawyers group, Betty Bracelin.

**THOMAS D. KELLEY**  
Seattle

**No Non-Binding Arbitration**

Editor:

Let's *please* not have lawyers using the phrase "binding arbitration" (see December 1975 Bar News, page 21).

The decision in an arbitration "... is binding on the parties to the arbitration as to all matters properly submitted and properly investigated by the arbitrators under the authority of the submission." 5 Am. Jur. 2d, *Arbitration and Award*, §1.

There is, so far as I know, no such thing as a "non-binding arbitration".

If the results are not binding on the party, then the procedure is simply not an arbitration by definition.

**MASON D. MORISSET**  
Seattle

**Reforms Needed on Probate Reform Act?**

Editor:

Our office has found the Probate Reform Act to be more onerous and expensive to our clients while saving them nothing at all. It appears to us that, with some minor exceptions, such as the durable power of attorney (which we find very useful), we could have done without the reform act. As stated by some others I've heard who work extensively in this area, it's business as usual except that we have some more paper work.

I have, however, some simple suggestions that might be kicked around and possibly offered as beneficial changes:

Restore to the "testator" the right to give nonintervention powers without notice; to grant those nonintervention powers at the time the will is admitted, if it is to a named executor and the petitioner can state under oath that the estate is fully solvent.

There seems little use in giving specific beneficiaries in the will notice of the final hearing, etc., when they are receiving or have received their full bequest under the will.

**J. R. SHERRARD**  
Bainbridge Is.

**Government Can't Afford To Let You Work**

Editor:

Regarding the Social Security 'retirement test', questions on this 'test' are frequently raised in discussions on problems with and possible changes in Social Security. You mention in the article one of the reasons for the 'retirement test' which is to remove persons from the labor market. This was important when the system was first devised back in the '30's and is becoming so again. A more basic reason for the stop-work requirement is that the system was designed as a gigantic group insurance program to insure the individual worker against loss of income. Thus, the disabled worker and his family, the widow and the orphan, and the retired worker are entitled to benefits — benefits that are made possible by



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the contributions of the workers.

Another point to consider is that the health of the system depends on a balance between contributions and benefits. Any substantial increase in eligible beneficiaries must be compensated for by increased contributions. A problem of major significance on the horizon is the substantial drop in the birth rate, which will eventually alter the balance between workers and beneficiaries.

These are among the questions that are currently the subject of hearings and discussion before the House Ways and Means Committee. They are in the process of drawing up new amendments which will be presented to the House during the next session. Removing the 'retirement test' or increasing the ceiling for earnings are some of the possibilities, but whatever is done will have to be part of a package.

**LLOYD MEEDS**

Washington, D.C.

### More on Videotape

Editor:

The article by Mr. Davis in the January edition (Page 19) is misleading and contains several inaccurate statements which should be corrected lest they become gospel for the video novice.

I am assuming that Mr. Davis uses the Akai video tape recorder in his work, since that is the model shown in the article. Let me point out that the Akai unit is a consumer model and not an industrial model. The Electronic Industry Association — Japan some years ago developed specific standards for professional video equipment. Most

manufacturers who produce the equipment conform to these standards, (referred to as EIA-J).

Once the standards were established, equipment quality improved and Sony, Panasonic, JVC, Shibaden and others began producing video equipment with an extremely high reliability factor.

Regarding the comments concerning playing a recorded tape to a jury: The standard size monitors used for this purpose are 17"-24" (hardly stable mounted on a tripod). The use of a standard screen size allows 12 or more people to view the image with a minimum of eyestrain.

Regarding the necessity to arrive at court two hours beforehand to check the machine (and backup): EIA-J equipment is in use in police departments, courtrooms, schools and universities across the nation and I'm confident the users do not allow themselves two hours to check their equipment before use. Fifteen minutes is more than sufficient time to set up the equipment and run through a pre check.

I must also take exception to the reference that video tape is mainly an educational tool and as such is unreliable. Quality equipment has proven itself to such users as NASA, Ford Motor Company, IBM, the California and Georgia Bar Associations, Pepsi Cola, ad infinitum. Again, perhaps the problems Mr. Davis mentions would not have existed had he used equipment designed for the type of use he discusses.

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### **Self-Insurance: Malpractice Coverage and Client Security Funds**

I have previously written (*Bar News*, May, 1975) about Bar Self-Insurance as related to attorney malpractice insurance. For two or more years the Board of Governors has been concerned with foreseeable malpractice insurance problems and has studied various alternatives which nearly led to a mandatory malpractice insurance program. That plan collapsed just prior to commencement. Another alternative studied, which was shelved at the time, was the British Columbia system in which the premiums were collected by the Bar, claims were adjusted by a Bar Association employee working with a Bar Claims Committee and if not resolved there, the claimant would bring suit, and the claimant's attorneys fees would also be paid. The annual premium: \$150. Their total number of attorneys is less than half the number in our Bar. The premium is less than that paid by any covered lawyer in this state. The total fund after four years amounted to \$1,200,000.

The insurance companies in California this year raised their rates by 338%; we may be facing the same increase as well as a potential refusal by certain insurers to renew policies or write new coverage.

If half the lawyers in this state are presently



covered and paying an average of \$200 per year *this year*, \$600,000 has been paid out in premiums for this year's coverage.

Are we not a large enough group to adequately spread the risks of malpractice over our membership (now 7000 attorneys) at an average cost per lawyer approximating that of British Columbia?

Malpractice protection is only half the Board's problem. The Client Security Fund, and protection to the public from fraudulent transactions by attorneys, not covered by malpractice insurance, is the other half. The Board has investigated various alternatives for insurance or partial insurance coverage as a supplement to the Client Security Fund.

The latest Committee report considered a "re-insurance" plan which would cost each member of the Bar approximately \$15 per year. This insurance coverage would merely provide availability of a fund from which Client Security Claims would be paid. The program would be a five year contract with the insurer, and at any one time, claims could be paid in amounts up to the total premiums received in the five year period. The insurance company would charge \$20,000 per year for administration of the fund.

In essence the "re-insurance" plan is only a guaranteed loan which might or might not be used, at a cost of \$20,000 per year.

Why pay out these premiums? Why not collect them within the Association and pay ourselves the administrative costs?

Both malpractice insurance and Client Security Funds could be maintained by the Association at costs to us, the members, much less than the premiums charged by the insurance companies. We have lost one year already in establishing the funds. The time to start our self-insurance is now! 7000 lawyers at \$200 per year would provide \$1,400,000 annually, which would most likely exceed the total claims from this state.

**Edward W. Huneke**



## Western States Bar Conference

In February the Board of Governors held its monthly meeting in Palm Springs, California, in conjunction with the Western States Bar Conference.

The Western States Bar Conference is a very loosely knit organization comprised (originally at least) of bar associations and lawyers in those states covered by the Pacific Reporter. Other states have, over the years, asked to be included.

The Conference holds one meeting each year and although it has no charter, no constitution and no by-laws, elects a president and president elect, and other officers. The sole reason for the existence of the conference is the betterment of the practice of law through the exchange of information between lawyers and bar associations of the participating states.

The format of the Conference for many years has included what is referred to as a "roll call of the states." What this amounts to is that a representative of the bar association from each state gives a brief report as to the activities of that state's bar association over the preceding year. After each report the Presiding officer opens the conference to questions from the floor. The Conference usually takes 2½ to 3 days to cover all of the states.

Washington was the last state to report at the 1976 conference in Palm Springs, and as the reporter for our state I suggested that the name of the conference should be changed to the "Misery Loves Company" conference, since it appeared that most, if not all, of the Bar Associations in the western states have the same problems.

This Conference, in my opinion (formed over some 5 years of heavy participation in bar activities) is probably the best working meeting of all the conferences, conventions and "colloquiums" that I have ever attended. It gives the bar official, and the private attorney, an opportunity to exchange ideas and information on a wide variety of subjects of mutual concern and interest in an informal loosely structured format, without speeches and any great deal of rhetoric and high moralizing which too often characterize Bar functions. It is simply a "let's get down to business, how does it work for you?" kind of meeting.



The Conference is open to any attorney who wishes to attend, whether or not he is a bar officer, and is held annually in February. The next meeting is scheduled for Maui in 1977.

If you are in any way interested in bar activities in the western states, plan to attend in 1977.

All of us came away from the Conference with some good ideas for the Bar of our state, and the firm and reenforced conviction that we need take a back seat to no other bar association. Everything they are doing, we are doing, and in our opinion, better.

In a future column I will fill you in on some of the new ideas we picked up at the Conference and share them with you.

*Robert S. Fay*

# Fire in the Office!

By Donald A. Senter

FIRE in the law office! What are the risks?

In the early morning hours of June 11, 1971, the Realty Building in Everett, Washington, was partially gutted by fire. Portions of the second story law office of my partner, Bardell Miller, and myself underwent a "vertical integration" with the ground floor jewelry store below. The financial and emotional impact on us in the following weeks and months was devastating.

Following the fire, we were faced with many problems. We first had to find an office where we could attempt to continue our practice in spite of the damage, in a building which would also provide a place to sort burnt and water soaked files. (The smell of burnt soggy papers can permeate a building in a way that is, to say the least, unpleasant for the other tenants.)

We further had to reconstruct the files as rapidly as possible to prevent total interruption of our

practice as well as replace the office machines, supplies, equipment, furniture and law library.

In the weeks and months following the fire, we learned many things about the risks a lawyer is exposed to if a fire strikes his office. I have, as a member of the State Bar Committee on office practice, been asked to share some of our experiences.

Below are listed a few of the problems and the answers that suggested themselves to us.

## 1. Fire insurance coverage:

A. *Fire legal liability.* Fortunately, no other tenant or landlord ever suggested that the fire started in our office or was a result of our negligence, but after seeing the attempt made to place liability solely upon another tenant in our building for all the losses sustained in and to the building, we realized we were grossly underinsured in this area. We had \$5,000.00 fire legal liability coverage, the total loss to the building and contents

was in the hundreds of thousands of dollars.

B. *Office contents.* We were inadequately covered in this area, but not so inadequately as to result in financial disaster. This area should be reviewed by the managing partner each year at the policy anniversary after inventorying all of the office assets at present market value. The hidden investment a law firm has in supplies, forms, letterhead and the like is usually not recognized until it is suddenly lost.

C. *Valuable documents coverage.* Valuable documents coverage is available to law firms as a scheduled property floater to the standard fire policy. This area is probably one of the most easily overlooked areas of risk in a law office fire policy. We had more difficulty in negotiating a settlement with our carrier in this area than any other. The reasons are as follows:

1. Definition of valuable documents is not spelled out with much definition in most policies. After our loss even our carriers' underwriters were uncertain what the meaning of the term valuable documents was in their own policy.

2. After a definition of valuable documents is agreed upon, the question of how and for what amount the company will compensate for a

particular document, book, or record becomes the issue.

Will the company pay the cost of research by the attorney to recreate the information needed to be replaced upon the destroyed document? The answer to this appears to be a resounding "NO". If your 90-page appeal brief is destroyed by fire the day before it goes to the printers, you are probably entitled to the fair market value of the paper and possibly the stenographic cost of reproducing it.

What is the value of a closed client file which is destroyed and whose only function is that of a lasting record of the case? Probably the cost of the manila jacket, the acco fasteners and the paper. Maybe reproduction costs for obtaining copies from the court file or from the files of opposing counsel.

Is your law library valuable documents? It can be, but may not be.

Our valuable documents floater had a space which required the location of the valuable documents to be inserted. No insertion was ever made. Fortunately, therefore, we were able to switch our law library back and forth between office contents coverage and valuable documents coverage at will. This was the very thing which I believe finally compelled the adjuster in our case to pay us full policy limits after three weeks of negotiation.

Another lawyer in our building who lost files, records and library had inserted in the blank something as follows: "the above described valuable documents will be located in 5 locked steel file cabinets". This insertion prevented him from recovering his library loss under valuable documents, and, I believe, prevented him from recovering for losses to business records, forms and the like.

This area should be carefully discussed with the agent or broker at the time of policy issuance and may well require the obtaining of a letter from the underwriters clarifying what is covered and how it will be compensated for in event of loss. Caution is the by-word here.

### General Suggestions

1. Keep client index cards in closed rolodex files, and the rolodex files in as fire proof cabinet



Donald Senter received his law degree from the University of Washington in 1964. He is a member of the ABA and of the Office Practice Committee of the Washington State Bar. He is a partner in the Everett firm of Senter & Miller.

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as is practicable when the office is not open. Our most frustrating loss was the loss of client index cards. Even if the file is not destroyed, many fee earning hours are lost looking for the file due to the lost index card.

2. Client ledgers— We would suggest a duplicate outside of the office or they be kept in ABC fireproof storage cabinets.

3. General ledger — Same as with client ledgers.

4. Cash, deeds, mortgage and the like — Coverage probably not available. Treat them like what they are.

5. Check policy provisions carefully and discuss at length with agent or broker.

6. Keep contents coverage up to true value. Don't be deceived by your own depreciation figures.

7. Get business interruption insurance. You cannot practice law and sift ashes at the same time.

8. Exercise extreme care in the valuable documents area. If it is not clear to you what is covered and what you will get if you have a loss, approach it with the agent or broker with the same suspicion and skepticism as you would if you were analyzing the policy for a client.

9. In planning coverage amount for fire legal liability, estimate the value of the building you are in as well as the contents value of the other tenants.

10. Have good ABC fire extinguishers in the office with a staff that knows how to use them.

11. Use ABC rated fire cabinets for the documents, records, and files you cannot replace. Oh yes, shut them at night.

12. Take a periodic check through the office, looking for fire risks. "Plastic" wastebaskets for smokers are a "No-No".

13. Last but not least, maintain your office in a fire proof building with other tenants that do not have fires. Watch out for high fire risk co-tenants such as restaurants, bars, draft boards, IRS offices and the like.

I hope some of the above suggestions might prevent a law office fire from occurring, or if it happens, prevent it from becoming an economic and emotional disaster. □

# Scope and Purpose of the New Rules

*By* **MALCOLM L. EDWARDS**

This is the second in a series of articles on the new appellate rules which are effective for cases filed on and after July 1, 1976. The rules are discussed by title in the order set out in the rules. The discussion of each title is preceded by the outline analysis which appears in the rules. The rules are published in 86 Wn. 2d at pages 1133 through 1335.

## **TITLE I SCOPE AND PURPOSE OF RULES**

- 1.1 Scope of Rules
  - (a) Review of Trial Court Decision
  - (b) Review of Decision of Court of Appeals
  - (c) Special Proceedings
  - (d) Application to Both Appellate Courts
  - (e) Application to Civil and Criminal Proceedings
  - (f) Action of Appellate Court

- (g) Superseding Effect of Rules
- (h) Effect of Subsequent Legislation
- 1.2 Interpretation and Waiver of Rules by Court
  - (a) Interpretation
  - (b) Words of Command
  - (c) Waiver

The rules apply to proceedings in the Supreme Court and in the Court of Appeals. The term *appellate court* is used in the rules to refer to both of these courts. Each rule applies to both courts, unless a different application is indicated. There will no longer be separate appellate rules for the Court of Appeals and for the Supreme Court. RAP 1.1(d)

The rules apply to three different kinds of proceedings. The two most obvious are proceedings in the appellate court for review of a trial court decision, and proceedings in the Supreme Court for the review of a Court of Appeals decision. RAP 1.1(a), (d). The third category, called *special proceedings*, encompasses every other kind of proceeding in the appellate court.

The special proceedings in Title 16 include original actions in the Supreme Court and in the

Court of Appeals. One of those original actions is a *personal restraint petition*, RAP 16.1(c). The personal restraint petition is a unified procedure which, under the new rules, takes the place of habeas corpus and proceedings for post-conviction relief.

Special proceedings are governed by Title 16. The rules in Title 16 do not apply to proceedings for review of a trial court decision or to proceedings for review of a decision of the Court of Appeals by the Supreme Court. A rule not in Title 16 does not apply to special proceedings, unless a rule in Title 16 says it does. A practitioner dealing with a special proceeding need not search through all of the rules of appellate procedure. It is enough to look at Title 16, unless a rule in that title refers you to another rule outside the title.

Unlike the old rules, each rule in the new rules applies to both civil and criminal proceedings, unless a different application is indicated. RAP 1.1(e)

The rules repeatedly refer to action taken by the *appellate court*. The practitioner should under-

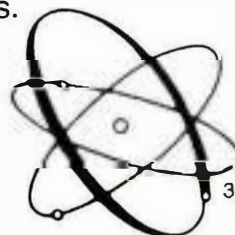
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stand that the action may not necessarily be taken by a judge. The appellate court clerk and commissioner are given authority by the rules to make some decisions, called *rulings*. An act taken under the authority of the new rules is referred to as action taken by the appellate court even if that act is performed by a clerk or a commissioner. RAP 1.1(f)

As indicated in part 1 of this series, the rules supersede all statutes and rules covering appellate procedure, unless one of the rules specifically indicates to the contrary. A word of warning: the original draft of the rules would have made the new rules immediately effective as to all cases then pending in the appellate court, except when application of the new rules would not be reasonably feasible. The rules as adopted by the Supreme Court apply only to cases filed in the Supreme Court or Court of Appeals after July 1. The old statutes and rules continue to apply to any case pending before the appellate court on July 1. See RAP 18.22 and the order adopting the new rules. A list of the statutes and rules superseded by the

new rules is found at Rule 18.22(b). As that rule notes, the list may not be complete. If a statute or rule relates to appellate procedure, it is superseded to the extent that it relates to appellate procedure whether or not that statute or rule is listed in Rule 18.22(b), unless one of the new rules states otherwise.

The legislature has a habit of frequently inserting into a substantive bill provisions which relates to appellate procedure, often without any thought as to how those provisions might dovetail with the existing appellate rules. For example, see the list of statutes at pages 1279 through 1280. It is unlikely that the legislature will abandon this habit because of the adoption of new appellate rules. In an effort to limit the havoc this kind of habit can create, the new rules provide that if a statute in conflict with a rule is enacted after the effective date of the rules and that statute does not supersede the conflicting rule by direct reference to the rule by number, the rule applies unless the rules specifically indicate that statutes control. This should reduce the incidents of unintentional legis-



Malcolm L. Edwards is with the Seattle law firm of Edwards and Wetherall. He is Chairman of the Task Force on Revision of the Rules on Appeal and a member of the Washington Appellate Court Advisory Committee. A substantial part of the work of his firm is in the field of appellate advocacy.

# Bonds!

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latively created disarray. RAP 1.1(h)

Rule 1.2—Interpretation and Waiver of Rules by Court—sets forth the fundamental policy behind all of the rules. That policy is to promote justice by facilitating the decision of cases on the merits, rather than on the basis of compliance or noncompliance with procedural rules. The concept is not new, but it is expanded under the new rules. For an example of a statement of this policy under the old rules, see *Beritich v. Starlet Corporation*, 69 Wn. 2d 454 (1966). We can only achieve justice if we recognize that each of us can make mistakes. If there is any other reasonable solution, a client should not be denied a decision on the merits because of the mistake of his lawyer. A malpractice case is not a substitute for an appellate decision on the merits.

This does not mean that a practitioner may ignore the rules with impunity. What it does mean is that an attorney [or a party] who violates the rules may be required to pay monetary terms or compensatory damages to a party who has been harmed by the failure to comply with the rules.

RAP 18.8(d) and 18.9(a). It may well turn out that the new rules' emphasis on the payment of monetary sanctions will promote a greater compliance with the rules than did the seldom carried out threat of dismissal under the old rules. The new rules do preserve the sanction of dismissal for the extraordinary case.

There are limits on this policy of going to the merits: the appellate court will not ordinarily extend the time within which a party must perform an act which under the old rules was considered "jurisdictional"—for example, the time to file a notice of appeal. In those cases:

"The appellate court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time . . ." RAP 18.8(b)

These formerly jurisdictional time limits will be extended "only in extraordinary circumstances and to prevent a gross miscarriage of justice . . ." RAP 18.8(b). This authorization in the extraordinary case to extend the time in which a notice of appeal may be filed may be considered



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by some to be a change in the existing law. This is not the case. Our appellate courts have in the past extended so-called jurisdictional time limits: sometimes openly, and at times indirectly through such means as redefining the date when the time period began to run or through a strained finding of substantial compliance. For examples, *see Moore v. Burdman*, 84 Wn. 2d 408 (1974), *Mallot v. Randall*, 83 Wn. 2d 259 (1974), and *Myers v. Harris*, 82 Wn 2d 152 (1973). The new rules simply codify and make clear for all to see what has been prior practice. Rules can only be uniformly applied to all litigants if they are known. For that reason, the task force attempted to codify all appellate rules worthy of retention including those which formerly could be found only in case law. This rule which regulates a party's very access to the appellate courts was certainly in need of codification.

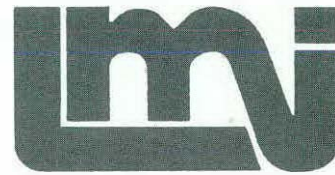
Next month we will start getting into the meat of specific procedural aspects of the rules. Before getting there, you should know how words of command are used in the rules. They are defined in Rule 1.1(b). "Should" is used when referring to an act a party or counsel is under an obligation to perform. Sanctions will ordinarily be imposed if the act is not done within the time or manner specified by the rule.

"The word 'must' is used in place of 'should' if extending the time within which the act must be done is subject to the severe test under Rule 18.8(b) [for what were formerly considered to be jurisdictional acts] or to emphasize failure to perform the act in a timely way may result in more severe than usual sanctions."

The traditional legal word "shall" is used in the rules only when the act to which reference is made is to be done by someone other than the appellate court, a party, or counsel. "Will" or "may" is used when referring to an act of the appellate court. The rules went through several drafts and "drafters". You should not expect complete consistency in the use of these words. □

*Next Month*

**THE NEW APPELLATE RULES: PART III**



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## Office Practice Tips

I have almost come to the point where I am inclined to tell a young lawyer the most important step he can make in practice is to learn to smile. The new client isn't looking for a sour puss. He is looking for a friend in time of need, a courteous professional with a sincere interest in his problem.

The most valuable mechanical aid I have found to maintain a friendly relationship with my clients is my FRIENDLY BOX. It is a simple tray of three by five inch cards which has been described in past articles under the title of "CLIENTS CARDS". Reprints are available for \$1.00

Promptness is primarily a matter of delegation and establishing a system. Attorneys necessarily must fly in a dozen different directions. It is the nature of the profession. An adequate staff with direct responsibility and an adequate internal office system are the insurance against neglect of the client and his business.

Detailed time statements for billing and sending copies of all instruments to the client as recommended by J. Harris Morgan of Texas in his addresses to our Bar are the answers to keeping

the clients informed. Set up a clients file at the outset of every new matter. Open it with a letter of explanation of your anticipated procedure in his case and follow up with a flood of copies stamped "For your Information". Its simple with a good copy machine, a rubber stamp and a packet of pre-addressed envelopes in your file.

Jerry's address brought home once again the close correlations between good office practice, contented clients and disciplinary problems. Sloppy practitioners are dangerous practitioners.

**HARRY E. HENNESSEY**

Prepared by the Office Practice Committee, Harry E. Hennessey, Editor, Spokane, Washington.

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

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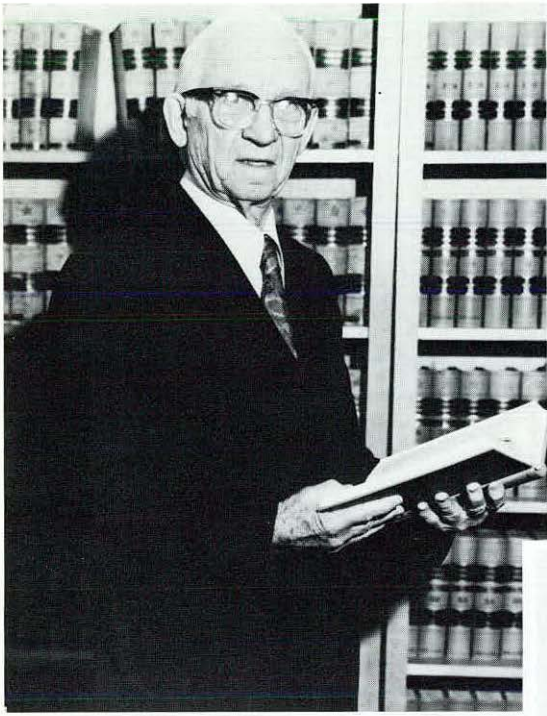
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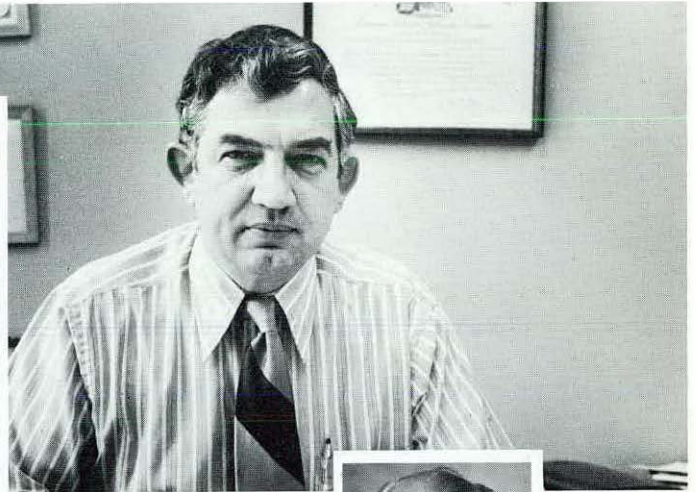
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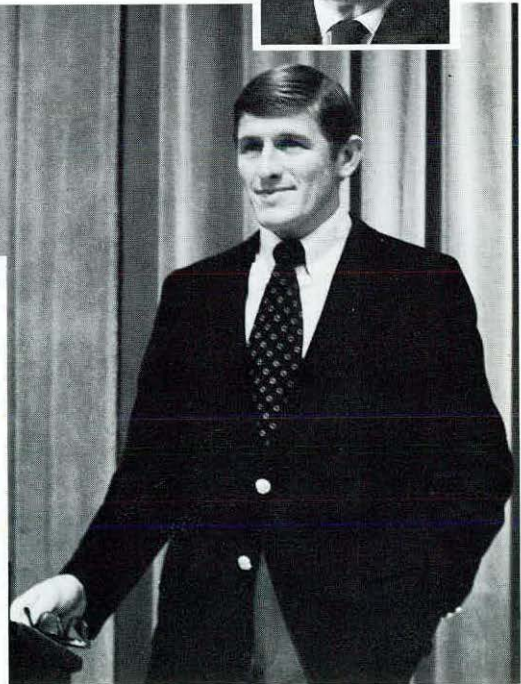
Prof. William H. Wicker, Gonzaga U.



Eugene Zelensky



John D. McLauchlan



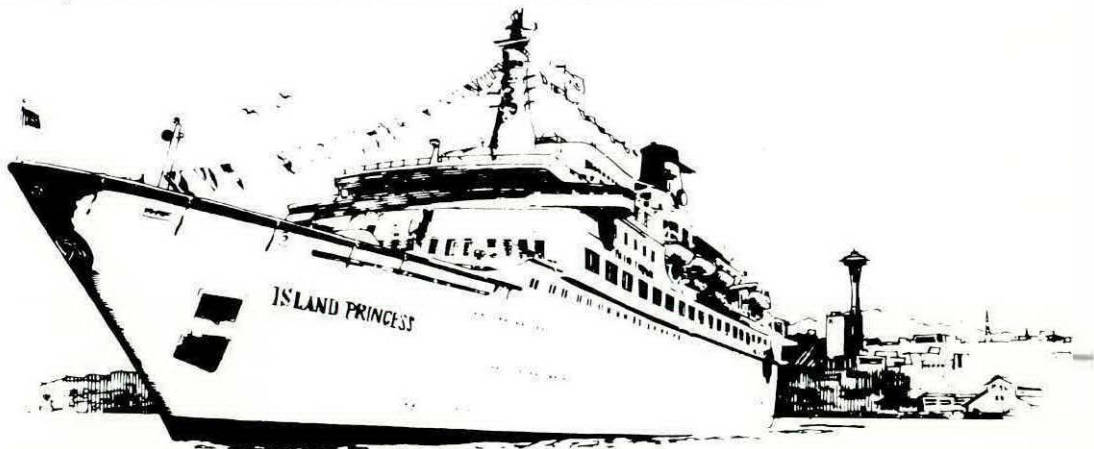
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Warren Gilbert, Bill Wells and Rinehart Wolf  
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## SPOKANE 1976 CONVENTION SITE

By Kathy Hascal



The Bar is back! Back in Washington and back in Spokane for the 1976 convention. Things change and this time you'll find a new Spokane. A city that is excited about becoming one of the most dynamic convention destinations around.

We hosted the World's Fair in 1974, became an All America City in 1975, and are still moving forward with the Spirit of 1976. In an age when many downtown areas are dying, Spokane's city center shows what can happen when a community decides to buck the trend. That effort attracted international attention when we hosted the World's Fair and the spirit's still going strong. The Expo site has been developed into a riverfront park. And it seems the more we attempt, the more enthusiastic we get.

Spokane has a lively downtown with a network

of skywalks connecting a six-block area of shops, stores and hotels. Spokane's the kind of place you can buy real German sausage, handmade leather boots, authentic antiques and French champagne — without moving your car. Downtown is clean, safe, easy to shop and very much alive.

At night, Spokane is a little bit of Broadway, a touch of Vegas, a hint of Nashville, and a whole lot of fun. It's not unusual to see names like Bob Hope, Bing Crosby, The Carpenters, John Denver, Mac Davis and Dionne Warwick flashing from marquees in Spokane. We bill top entertainers as well as cultural events and musical troupes. With the Coliseum, the Stadium, the Opera House and the Convention Center, Spokane has proven its ability to host everything from the Joffrey Ballet and the Ice-Capades to the Spokane Sym-



**Rejuvenation has turned Spokane's downtown into a clean, crisp six block area with 5 department stores and over 100 specialty shops and squares connected by covered skywalks.**

phony and Diamond Spur Rodeo.

If you need to find lodging for 1225 convention delegates — or even twice that many — we've got it. And more. In fact, Spokane has over 3,000 first-class rooms alone. You'll find a variety of accommodations downtown and throughout the city.

Some people consider the heart of Spokane to be a hotel, the world famous Davenport. It became internationally famous for its architecture and imaginative service.

This turn of the century landmark has been returned to the elegance envisioned by founder Louis Davenport and designer Kirtland Cutter. Dubbed the "newest place in town", the hotel features three hundred newly renovated guest rooms, a remodeled lobby that features the imagination of its founder and Mrs. Davenport's Garden, a refreshing approach to relaxation and drink. Fine food and beverage can be enjoyed in Louis D's and the Davenport Waffle Foundry.

Besides the magnificent old hotel, there are sleek new ones. The Sheraton/Spokane is adjacent to the Northwest's newest, most magnificent

convention center complex. It combines towering urban elegance with resort convenience to shopping, entertainment and restaurants. The new Sheraton immediately adjoins Spokane's impressive Opera House and Convention Center.

The 15-story Sheraton, with its poolside pleasures, cosmopolitan restaurants, cabaret diversions and arcade shops is an urbane resort hotel — unusual, and perhaps unrivaled in its location for business and leisure in a city center.

You're just a wish-and-a-stroll away from downtown shopping, fascinating "turn-of-the-century" squares and Spokane's other leading hotels. But if you choose to "stay at home", at the Sheraton, there's a world of convenience and diversion right there.

The always excellent Ridpath Hotel and Motor Inn, a new Spokane River Inn and a completely remodeled Red Lion Motor Inn give you a broad selection of accommodation possibilities.

Where you eat should be as much fun as what you eat, and Spokane comes through on both counts. We'll serve you on a rooftop, floating restaurant, in a cabaret or cafe. You can sit down to sauerbraten, mutton and dumplings, cannelloni, sukiyaki, lobster thermador or a number of other specialities. And since much of the West is still beef and barbecues, we can treat you to dozens of restaurants that give you both.

An old and new world of difference is as close as the Flour Mill. Look what we have in store for you—art, atmosphere, browsing, clothes, decorating, dining, furniture, gifts, graphics, household items, jewelry, lingerie, music, nostalgia, snacks, tobacco, and the rest of the alphabet, too. Our visitors have a chance to satisfy their appetites in quaint and different ways.

Visitors find a unique atmosphere of a by-gone age in a close to downtown location. It can cap a walk through Riverfront Park or spark a day anew.

The Riverfront Park is our in town "get away" place where you can be refreshed with a stroll on walkways laced with greenery, picnic by the fish ponds or jog along the River. Here you sense mankind's unique affinity for nature. His capacity for fun and enjoyment.

If you thought a carousel was only for children, we have a surprise for you. In one corner of

the park we have the beautiful, hand carved, Loeff Carousel which was first operated in Spokane in 1908. The faces you see riding the carousel are young and old and full of delight. It's part of the feeling of the Riverfront Park — it's for everyone.

How about another type of ride? Maybe an exciting float trip down the Spokane River or possibly you'd rather be above that — suspended over the same river in a gondola that passes silently under a magnificently arched bridge and over tempestuous rapids.

Spokane has the simple things that are so hard to find anywhere else. Spokane people learned a long time ago that you can't buy back forests and streams once they're gone. So while you'll find wilderness area losing out to "progress" in other parts of the country, you'll still find plenty of trees, lakes, and waterfalls here.

Very few areas of the country have four distinct seasons. We're one that does. So when you're in Spokane you can ski, swim, hike, horseback ride, canoe—whatever the weather calls for. There's something different to do all year round.

If you like being surrounded by 12 national parks, 15 national forests and 76 lakes, you'll like it here just fine. Spokane's in the center of a lush recreation area that includes three states and parts of Canada. You're within a day's drive of Yellowstone and Glacier as well as 10 other national parks. The nation's largest silver mine lies to the east, and Grand Coulee Dam to the west. We have federal, state and wilderness campground with all the things you go camping for. We invite you to linger a few days to see some of the most famous scenery in the country.

Contrasts — wild and tame, primitive and civilized. The lessons of creation all around us sharing our land. Quiet and rugged surviving harmoniously side by side, complementing each other. Because of this setting, we can live our lives with more meaning.

We're excited about Spokane and the changes taking place here. We gave ourselves breathing space, even in the heart of our city. The natural charm of this area has been enhanced by giving parts of it back to nature. Come share it with us.

□

## HOW TO MAKE MONEY PRACTICING LAW

By Volney F. Morin

A book first published in 1966, but the new Fifth Edition is as up-to-date as a new hairstyle. The price of \$13.95 seems high, but every other page contains a nugget as to how to increase earnings from a law practice. The book is highly readable, practical, and is a great refresher course, from Ivar Publications, P.O. Box 1855, Los Angeles, California 90028.

The author's main thrust — to have a zero accounts receivable balance by the use of deposit fees — is intriguing.

This "method" may not work in all situations, but any progress would result in a higher collection ratio for fees charged. The author points out that equipment for a modern secretary station will probably cost from \$10,000 to \$20,000, and payments must be met. He clearly explains practical methods of attracting legal business in an ethical manner, and, more important, how to keep clients after original engagement.

The sections on public relations cover involvement with client, staff and other attorneys. These sections should be read and re-read by every lawyer in public or private practice. Morin's statements are a unique blend of psychological principles and personal experience.

The author clearly has some tried and proven methods. The book will make you stop and reexamine your own methods of operation and unless you are a successful genius, you will find some ideas to adapt into your own system. The cost of the book can be earned from better relations with your next client.



## Bar Credit Union and Self-Insured Malpractice Coverage Considered by the Board

*Reported by Edward Huneke*

### Executive Director's Report

The remodeling of the Bar Offices is nearly completed. The Bar Association now leases out the entire College Club Building and subleases offices in about half of it. Substantial renovation is being completed on the Bar's premises including new carpeting in substantial portions of the office.

### CLE Schedules, Seminars

1. The 1976 Convention schedule was approved. It appears that the Convention is going to start one half day earlier than usual. The schedule is as follows:

*Wednesday afternoon, September 15 –  
Section Seminars*

Creditor-debtor rights  
Real property, probate  
Young lawyers

Taxation  
Antitrust

*Thursday morning, September 16 –  
CLE Seminars*

Legal aspects of health care  
Labor law  
Probate and Will drafting

*Thursday afternoon, September 16 –  
CLE Seminar*

Bicentennial seminar

*Friday morning, September 17 –  
Annual Business Meeting*

*Friday afternoon, September 17 –  
Section Seminars*

Corporation, business and banking  
Criminal law  
Family law  
Environmental law  
Intellectual and industrial property  
Trial practice

*Saturday morning, September 18 –  
CLE Seminars*

Comparative negligence update  
Libel and slander

2. Some of the seminars throughout the year lose money, while others come out ahead. The Bar Association owes it to the members to cover all fields of law, and it is not possible to have every seminar self-sustaining. The major item of cost is for printing, speakers, expenses and rent. The seminars are attracting more people. The latest seminar had over 800 in attendance.

The overall CLE program does not run at deficit. Printing cost is the largest single item. The Lawyers Life Seminar at Harrison lost \$6,000, but it was an experimental program and it was considered a terrific success and will be repeated. The seminar received national recognition.

3. The plan to have a Bicentennial Seminar at the Convention was generally thought to be a good idea. The success of the seminar will obviously depend on the speaker, and the committee will do its best to obtain a "name" speaker. Suggestions included Justice John Stevens, John Glenn, Don Rumsfeld, Senator Lowell Weicker, and Senator Barry Goldwater. It was also felt that political candidates actively running for election should probably not be considered.

4. The Board approved the following topics for the 1976-77 CLE Seminar schedule:

XXI Annual Estate Planning Seminar  
Trial Advocacy III  
Washington State taxes  
Environmental Law  
Landlord and Tenant  
Administrative aspects of practicing law  
Products Warranty: Moss-Magnuson Bill  
Management of a Lawyers Life II  
Claims v. The United States  
The New Appellate Rules (RAP)

**Client Security Fund  
Insurance Solution**

Don Spickard presented a proposed re-insurance solution to aid the Client's Security Fund. The factors justifying this proposal include

membership reaction that "we should not bankrupt ourselves," and we should not build up too large a fund. The proposal would require a five year contract, costing \$15.00 per member per year which would yield \$100,000 per year. The cost of said program would be \$20,000 per year. In addition, the Bar would maintain a \$100,000 fund to pay up to \$25,000 in claims per lawyer. The consensus of this Board is to remove the \$25,000 limitation, hence the reason for the re-insurance proposal. The proposal merely provides funds, up to \$500,000, which could be used in any one year. Without the program, it would take five years to build the funds to the \$500,000 level. Any amounts paid out on the re-insurance proposal would merely be paid back by membership contributions in the following years. Therefore, this plan is a "no-risk" plan to the insurance companies, and it merely provides a fund which could be used immediately. Over five years, the total cost would be \$100,000.

The question was raised why the Bar does not insure itself, keeping the \$20,000 per year premium in our own fund.

After hearing the report, the Board decided that an attempt to make 100% reimbursement to clients is still the best plan. One means to accomplish this would be to require lawyers to be bonded, which might cost \$50.00 per year per attorney, and again, it seemed to the Board that if there was to be a bond requirement to indemnify clients, the same premiums could be paid into a Bar Association Fund which would be of sufficient size in a short time to cover all losses.

The Committee is going to continue to study the problem to see how much of an assessment per lawyer would be needed to build a self-insuring client's security fund. The Committee will also come up with general guidelines for limits per claim and will make a report by June 1.

The entire matter of the client's security fund may be brought before the membership at the convention in Spokane, depending upon further developments in the interim.

**Lawyers Malpractice Insurance**

The Board will request Bill Gates' committee to study the possibility of Association self-

insurance for malpractice insurance in view of the substantial increases in California in premiums by Travelers of 338%, after promising a 15% increase, which has resulted in litigation.

### Open Meetings Law

The question was raised whether committees established by this Board are subject to the Open Meetings Law. The consensus was that the meetings were not subject to the laws because they are advisory only, but further inquiry will be made by Mr. Friar.

### Disciplinary Rule Change

The Board adopted a change in DRA Rule 2.1 as follows, adding a second paragraph to the Duties of the Administrative Committee:

- (2) The local Administrative Committee may assign the investigation of a complaint or other matter to an individual member of the Committee directing such member to submit a report to the Disciplinary Board as

herein provided, except that all such reports shall be forwarded by members of the Committee through their respective Committee chairmen who shall confer with the member upon the investigation and review and vote upon the findings, conclusions and recommendation contained in the report.

### Group Legal Services

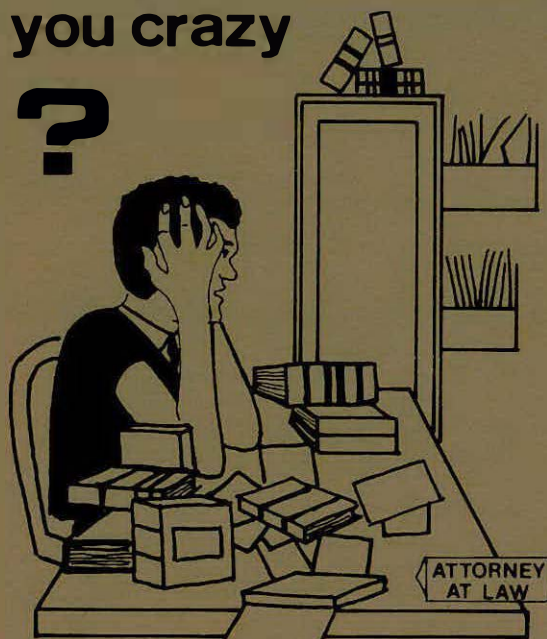
Chuck Stone, cooked by 30 days of Hawaiian sunshine, reported on recent changes in the Group Legal Services Program. One proposed change may modify the insurance requirement of \$2,500 deductible to \$25,000 deductible.

Another change, previously reported, deleted references to any hourly rate of compensation which will allow participating lawyers to bill for legal assistants' time. Stone reported that there are over 500 lawyers signed up in the program representing 60 communities.

Stone suggested that the disciplinary rules be evaluated with regard to advertising as it relates to open and closed panel groups.

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### **Bar Credit Union**

Earl Weatherman presented to the Board a general outline of the purposes and benefits for setting up a credit union. He proposed a credit union which would be available for investing and borrowing for members of the Bar, their families and their employees. The credit unions in this state pay between 5½% to 7% interest on deposits, and there is a maximum of 12% including all charges charged on loans. Different loans for different purposes can be made at varying interest rates.

A credit union needs both a market for making loans and a potential source for obtaining deposits. The attraction to depositors is the reasonable degree of security plus a higher interest rate. The higher interest rates paid are only possible if the funds deposited are loaned out. There needs to be a demand for money, which appears to be likely among the Bar Association. A committee will be formed to study the idea and will consist of one Board member and four outside persons.

### **Supreme Court Poll**

The Board authorized a Supreme Court preference poll. This poll will not be "rating" of the judges but just a vote for the "most qualified" person for each position.

### **Convention Sites**

1976 — Spokane  
1977 — Vancouver, BC  
1978 — Vancouver or Spokane — to be decided after 76 Convention  
1979 — Vancouver, BC  
1980 — Advisory vote at 1976 Convention will be obtained between sites in Spokane, Vancouver, and Hawaii.

Mr. Friar reported that Portland is out of any consideration. He stated that hotel space and food at Vancouver prices is about equal to hotel, food and transportation charges to Hawaii. San Francisco expenses are higher than Vancouver.

### **Medical Malpractice**

Continuing progress and study on the medical malpractice problems will involve our participa-

tion in certain studies. One study being carried on at the University of Washington is expected to provide reliable data. The Bar committee is authorized to continue its efforts on the general problems and to report its progress periodically to the Board.

### **Alarm Clocks**

David Hoff's absence at 9:00 a.m. Saturday, was cogently explained shortly thereafter upon his arrival — he mistakenly set his alarm clock for 7:00 p. m. rather than 7:00 a.m.

### **Spot Audits**

The Board approved and authorized the sending of John Heath's letter to the Supreme Court clarifying the proposed spot audit rule. Certain exceptions are included within the rules regarding statutory privileged communications between lawyer and client, and it is the Board's opinion that the client confidentiality would not be violated by investigations into trust accounts and spot audits. The policy of protecting clients offers a sufficient exception to the general privilege within the language of the present rules.

The cost for said audits will be borne by the Bar Association. The costs will include the salaries of a staff auditor as well as an education program on bookkeeping.

Audits will be made both on a spot, random basis as well as any basis which indicates there might be some problem with accounts which comes to the attention of the Bar staff.

The audits are anticipated to include only trust accounts, unless the books of the lawyer are in such a condition that access to the general accounts is also necessary.

### **Interns — Extension Of Time**

The intern rule does not give the Board any discretion for allowing extensions. However, one intern recently sought an extension, ex parte, from the Supreme Court. The Court accepted the reasons for the extension and granted the extension. Any future requests by interns will be turned down by the Board, but the interns should know that they may apply directly to the Supreme Court and might obtain their extensions. □



## Around the State

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### EAST KING REPORT

By ROGER BARBEE

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Judge **Carolyn R. Dimmick**, from the Northeast District Court, has been appointed to fill the vacancy created by the resignation of Judge **Ward Rooney** from the King County Superior Court. **Shannon Wetherell** has been appointed by the King County Council to fill the vacancy in the Northeast District Court which was created by the appointment of Carolyn Dimmick.

The law firm of Parks, Johnson & East are pleased to announce the association of **Geoffrey G. Revelle**, **Bruce M. Ries** and **Richard F. McDermott, Jr.** in the general practice of law.

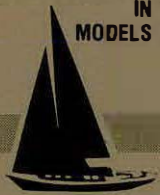
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### GRAYS HARBOR REPORT

By JOHN L. FARRA

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It is sad for me to announce the death of two prominent Grays Harbor attorneys **Paul Manley** and **Ove M. Nelson**.

**Paul Manley**, 78, a former Grays Harbor County prosecuting attorney and long-time Aberdeen and Cosmopolis resident, died at his home. He was a justice of the peace for many years, retiring in 1972 at 74 years of age. He was graduated from the University of Washington Law School and came to Aberdeen on New Year's Day, 1925 to work in the W.A. Ackerman law firm. He became a partner a year later. He ran for prosecuting attorney in 1930 and served several terms. He was a special prosecutor in the notorious Laura Law murder in the 1940's. He was a lawyer of

rare quality and anyone meeting Paul Manley, would not soon forget him.

**Ove M. Nelson**, 95, a long-time Montesano resident and prominent Harbor attorney, collapsed and died while attending a Christmas party of the Grays Harbor Bar Association at the Nordic Inn. He moved to Montesano in about 1907, working first for W.H. Abel Co., then passed the bar examination in 1908. He was an active member of the bar for the rest of his life. He was past president of the Grays Harbor Bar Association and the Montesano Chamber of Commerce, and was Montesano City Attorney for about 35 years.

Ove Nelson attained a rare stature in state history as the Dean of practicing attorney's in the State of Washington. He was still in the practice of law with his son, Greg Nelson of Montesano at the time of his death. His intelligence and good humor will be greatly missed.

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### SAN JUAN REPORT

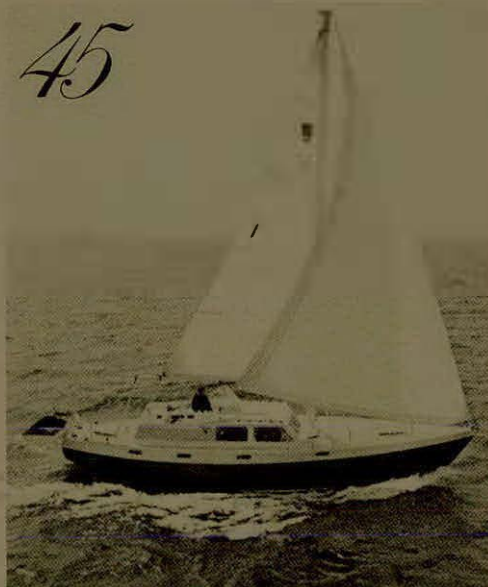
By MICHAEL C. REDMAN

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**Lucky Linde (John)** slipped away to Hawaii, thus beating the drizzle, and won his first jury trial. (Ye scribe, who got the short end of the stick, reports this with very mixed emotions.)

**Dennis Gerlt** and **John Carlson** are taking ground school. John's acquired a plane, and with a license, will be in a position to compete with Transworld on the local Bar charters to CLE ventures.

Coming up in beautiful San Juan County is a \$1,000,000 liability suit in which out-of-town counsel will battle it out. Our local CLE committee is seriously



considering claiming credit for it as a practical seminar — no fee for attendance. And so it goes.

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### SEATTLE-KING COUNTY REPORT

By JOHN SOLTYS

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**Seth Armstrong**, attorney at law, has relocated his law offices to 650 Colman Building, 811 First Avenue, Seattle, Washington 98104 (623-1590).

The law firm of Halverson, Strong, Moen & Chemnick has relocated its offices to 650 Colman Building, First and Marion, Seattle, Washington 98104 (623-1590) and announce that **Rebecca M. Baker** has joined the firm as an associate.

**Lawrence L. Shafer** and **Joseph H. Mitchell**, formerly known as Shafer & Mitchell, and **Steve Paul Moen**, announce the formation of a partnership for the general practice of law under the firm name of Shafer, Mitchell & Moen at 200 Metropole Building, Seattle, Washington 98104 (624-7460).

**Sandra D. Bates** has become a member of the firm of Carney, Stephenson, Siqueland, Badley, Smith & Mueller.

The Young Lawyers' "Swish and Swallow" party, held February 20, drew a good turnout. There were 182 attorneys and guests at the Sonics-76ers game (which Seattle won, by the way!) and an additional 22 guests at the wine tasting party held in the Alki Room at the Seattle Center.

Houghton Cluck Coughlin & Riley takes pleasure in announcing that **Phillip H. Ginsberg**, formerly Seattle-King County Public Defender, will be associated with the firm effective March 15, 1976.

**David Schnapf** announces the opening of a law office at 411 West Mercer Street, Seattle, Washington 98119, 285-6270.

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### SKAGIT COUNTY REPORT

By K. R. ST. CLAIR

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Having checked with the various attorneys in the county and the court files, it appears that **Paul Luvera's** \$675,000.00 settlement was the largest one obtained this past month. We also understand by the fact it was approved in the presiding department in Seattle, that such a result is considered adequate, even in the big city.

I guess one could consider this a metropolitan area now that Mount Vernon has grown to the point where we have five exits off I-5. This amounts to an exit for every 2,000 people.

Another sign of growth is the number of new lawyers in the area, and for their edification, I wish to pass on some of the rules for practice and success given to me some years back by **George McIntosh** of this community, as follows:

1. Grant the first eight requests for continuances as a matter of right.
2. Take a look at the books, think it through, then do something and let some smart S.O.B. tell you what you did wrong.
3. If you don't have a fee up front, you don't have a case.
4. When you can accomplish some good and make some money, you will find your interests working in the greatest harmony.



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## SOUTH KING REPORT

By JAMES L. VARNELL

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**Edward L. Douglas, Jr.**, a 1969 graduate of Willamette University Law School, is now associated with Branson, Hardwick & Conrad in Renton. Douglas was with the office of the King County Prosecuting Attorney for six years.

The South King County Bar Association is planning its annual trek to Olympia for a meeting with the justices of the Supreme Court. We understand that Dan Kellogg is once again making the arrangements for the chartered bus to be supplied with various refreshments. Last year's visit was best remembered for the 'back home' discussion which **Steve Johnson**, formerly of

Yakima and now in Kent, and Justice **Brachtenbach** had during dinner. At this time it is not known whether a ban on Johnson's cigar smoking on the bus will be enforced.

In what might be a South King County record, **Jim Gorham** was served with interrogatories weighing a total of 10 lbs., 8 ozs. Local bar members will be pleased to note that the interrogatories were propounded by a downtown firm. Shortly after receiving the interrogatories, Gorham was seen departing for San Francisco.

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## SPOKANE COUNTY REPORT

By GREGORY J. TRIPP

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Washington Attorney General, **Slade Gorton** announced that **D. Roger Reed**, his senior

assistant in Spokane, and **John P. Giesa**, an assistant Attorney General would leave the Attorney General's Office effective April 1, 1976. Mr. Reed and Mr. Giesa will join **Jan G. Otterstrom** in the Washington Mutual Building under the firm name of Reed, Otterstrom and Giesa.

The Attorney General's Office also lost **Michael Hall**, who left to become a Hearing Examiner for the Board of Industrial Insurance Appeals.

A film on Lawyer Administration was presented to the members of the Bar Association at a recent meeting. At another meeting of the Spokane County Bar, the Honorable **Robert F. Brachtenbach**, Justice of the Washington Supreme Court, spoke on the proposed mandatory C.L.E. and Trust Account auditing.

The Spokane County Young Lawyers announced that they have elected a new slate of officers: the officers are **James Murphy**, President; **John Lamp**, Vice President; **Lee Barnes**, Treasurer; and **Michael Pontarolo**, Secretary.

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## TACOMA-PIERCE COUNTY

By KENYONE E. LUCE

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The Lincoln Day Banquet will be held February 27, 1976 at the Lakewood Terrace Restaurant in Tacoma. Guest speaker will be Rennard Strickland who has written many books on Indian culture and law, the environment and foreign policy. He is now a visiting professor at the University of Washington Law School.

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**K. Michael Jennings, Thomas J. Westbrook** and **Hugh Ellis** have formed a professional corporation under the name of **Jennings, Westbrook & Ellis** at 11208 Bridgeport Way S.W. in Tacoma, Washington. Telephone: 584-5110

**Robert B. Taub**, formerly with Puget Sound Legal Assistance Foundation, announces the opening of his office at 600 Commerce Street, Suite C, Tacoma, Washington. Telephone 572-2600.

**Frank O. Witt, Gary W. Rentel** and **James S. Witt, III** have joined together as **Witt, Rentel and Witt, P.S., Inc.** with **Alfred J. Kucklick** of Counsel. Their new offices are located at 2915 North McCarver Street, Tacoma. Telephone 383-4514.

The following were elected officers of the Young Lawyers Association for 1976:

President — James G. Manza

Vice-President — Leroy

Boyce

Secretary — Chris Hass

Treasurer — Tom Larkin

Trustees: Beckey Craig, Terry Lumsden, Mark Adams, Mike Smith, Bob Nelson, and Bill Beecher.

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### THURSTON-MASON REPORT

By FRED D. GENTRY

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This writer regrets to report the passing of **Bill Parr**, well known and well liked member of our Bar. Bill graduated from the University of Idaho and has been a leading member of our association for many years. We will miss him.

**Darrel L. Peeples**, a 1970 graduate of the University of Oregon Law School, and late of the Attorney General's office, has joined **John L. Parr** and the firm is now known as Parr, Parr & Peeples.

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### WHATCOM REPORT

By MICK MOYNIHAN

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Due to the pressing demands of business, or perhaps because he did not want to attend meetings, **Jack Ludwigson** has resigned as vice-president of our county bar association. **Pete Visser** has been elected in his stead.

The Hon. **Jack Kurtz** has finished his first six months of being Whatcom County's third Superior Court Judge. The city and the county continue their

search for a permanent courtroom with Judges **Byron Swedberg** and **Marshall Forrest** sharing their courtrooms and the City Hall council chamber with Judge Kurtz.

Good news, after some initial anxiety, is that **Bill Gardiner** should have a normal recovery after suffering a heart attack. Bill's duties at the prosecutor's office will be assumed temporarily by **Bob Tull**, who appears to be big enough for the job.

**Dave Rhea, Jr.** has settled comfortably into the position of District Court Judge after being elected last November in a contested nonbinding election (see AG's Opinion). And yours truly has been appointed as Bellingham Municipal Court Judge, the position vacated by Judge Rhea.

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Shortly after the first of April, Bellingham will boast of a new city attorney in the person of **Patrick Brock**, formerly of Richland. No one will be happier to see Mr. Brock than **Rolf Beckhusen**, the acting city attorney, who has been doing double duty.

And **Jack Swanson**, in addition to being the proud papa of twin boys, has been made a partner in the firm of Voris, Lipscomb, Belcher & Swanson.

**Bob Burks** recently stepped up to the altar and is now a happily married man.

**Judy Bush**, formerly of Legal Services, is now sharing office space with Scott & Johnston. And Leland Brown, from Detroit is now sharing office space with Steve Sisson and John Erickson.

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### YAKIMA REPORT

By GARY M. McGLOTHLEN

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The game of musical chairs is still occurring in Yakima County Bar Association with new lawyers and old moving and associating all for the better of the practice of law. **Jack Maxwell** of California has now found Grandview to be a fine place to practice law and has associated with Blechschmidt and Bingman. Jack should make a fine addition to the Office of the City Attorney for Grandview, as his wife is the Mayor's daughter. **Ed Seeburger**, once the Legislative Session ends its marathon race, will be sharing office space with Ben Brunner and Mike Jennings in the 10th Avenue Building and paying rent to their new landlord, Kenneth Hawkins. **Leo Kendrick** is branching out into the criminal practice of law by rear-

ing his son, **Kip Kendrick** to be the latest addition to the Yakima County Prosecuting Attorney's Office replacing **Eric Gustafson**, who is now learning how the FBI used to operate from **Charlie Lyon**, with whom he is now associated.

**Terry Brooks** is in the middle of remodeling the 2nd floor of the Draper Building and hopefully about the first of April, all of the painting and pounding will be done for the opening of his new office.

Not to forget however, Lower Valley Lawyers, **Bill Aiken**, who probably has a greater shotgun collection than any of the hunting lawyers or doctors in Yakima, won the Browning Over and Under Shotgun at Ducks Unlimited. That's just what Bill needs!

Many lawyers rejoiced over the activity of the organized Bar during the Christmas party when Domestic Court Commissioner, **Cameron Hopkins** received, for his past rulings, one meringue pie in the face. It is reported that he took it with his eyes wide open searching for the diligent fact that would turn the case. In fact no member of the Yakima County Bar was brave enough to give him the pie in the face and had to retain separate outside counsel for the dastardly deed, who turned out to be one brave waitress.

It is with sorrow that the Yakima County Bar Association noted the passing of our brothers before the Bar; **Eugene Ivy** and **Mike Corless**. Words cannot express the feeling of the Bar toward the passing of these two fine lawyers. □

## Our Congressional Delegation Part I

# Report from the Nation's Capitol

By NEAL J. SHULMAN

Some three thousand miles to the east of Seattle, and somewhat to the south, lies the "other" Washington, well known to all, mystifying to some, and totally confusing to others. But no matter what one may think or feel concerning the machinations which go on here in the nation's capitol, Washington, D.C. is "where it's at". Here, amidst the splendor of magnificent buildings, monuments and memorials, often neatly bound up in bureaucratic red tape, are where the decisions are made, both large and small, which affect, and often direct, the lives of each and every inhabitant of this vast country.

Being a part of that governmental process, albeit a small part, is indeed a satisfying and exciting experience; an experience that gives one a greater insight and understanding of the decision making process and a keener appreciation of the multitude of problems and concerns facing those charged with the awesome responsibility of government.

Playing no small part in the tremendous task of keeping the affairs of the nation on an even keel are the Senators, Congressman and staff members comprising the Washington State Delegation. A close knit group, the State Delegation concerns itself daily with the dual responsibility for the needs and well being of the citizens of the State, and the broader needs of the country as a whole. It is the purpose of this column, and similar columns which may follow in the future, to share with members of the State Bar some of the thinking and legislative activity within our delegation, in the hope that it will perhaps aid in a better awareness and understanding of the governmental process,



Congressman Brock Adams

both within the nation's capitol and at home in Washington State.

Of keen interest to **Congressman Brock Adams**, Chairman of the House Budget Committee, was the President's recent budget submitted to Congress. That budget, says Adams, "contains little good news for the economy; for the jobless, the poor, the elderly, and lower-income wage earners; or for the hard-pressed State and local governments". In short, according to the Representative from the 7th District, President Ford's budget is "out of touch with the real world".

Speaking at a recent meeting of the Washington Press Club, Adams noted that the benefits of the proposed budget will accrue to an already large defense structure and to the business community, with the result of slower than needed economic

recovery and a shift of recessionary burdens to the poor. Noting that President Ford has projected that unemployment will be reduced only to 7.7 percent during 1976, and will still be at 5.8 percent during 1979, it is Adam's view that the budget for fiscal year 1977 "contains no major proposals to reduce unemployment through a job creation program". According to Adams, a major premise underlying the President's budget request is that tax reductions must be matched dollar for dollar with spending reductions, yet President Ford's tax revenue proposals "reveal a distinct bias toward business". He noted specifically that under Ford's proposal, maximum corporate tax rates would go down, and the investment credit would become permanent.

Set against these tax reductions for business, says Adams, are proposals for immediate increases in the social security and unemployment compensation taxes paid by employers and employees. "Particularly hard hit would be low and modest-income workers, whose wages have not kept pace with inflation, and who would fall further behind with these increases", he said.

Adams agrees that some change in the financ-



Senator Warren Magnuson

ing of social security will be needed in the near future in order to keep that system solvent, however, he does not believe that it is necessary to raise these taxes this year.

**Senator Warren G. Magnuson**, ranking member of both the Appropriations and Budget Committees also reacted to the President's proposed budget. Magnuson predicted that the Senate will do its best to minimize the level of federal spending in fiscal year 1977. "I cannot say whether the President's ceiling of \$394.2 billion is realistic until we have thoroughly analyzed, first, the impact the budget would have on the depressed economy, and, second, the impact it would have on federal programs which satisfy the legitimate needs of our citizens", he said.

Magnuson also pointed out that his preliminary review of the proposed budget caused him to be concerned that in some areas it may not satisfy "some of the basic needs of the people". As examples he pointed to health, education and housing. He said that the President's budget request for the health agencies totals \$4.9 billion, compared to the current level of \$5.3 billion. Major cuts, according to the Senator, include \$90 million to terminate health grants to the states; \$133 million in maternal and child health care and family planning services; \$60 million for the Cancer and Heart Institutes; and \$168 million for alcohol, drug and mental health programs.

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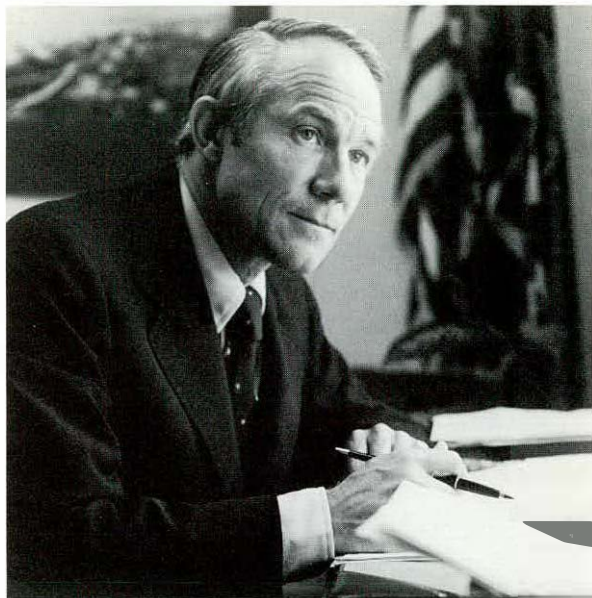
The Senator also reported that the President proposes a cut of one-half billion dollars in education programs overall. Programs for the local school districts would be cut by more than \$570 million. Hardest hit would be programs for disadvantaged children, which would be cut by \$150 million.

In the area of housing, Magnuson pointed to the President's prediction that special efforts to support housing would not be necessary because the mortgage market conditions were expected to improve significantly.

Magnuson promised that Congress will hold to a "responsible level of federal spending in fiscal year 1977. In the process of doing so, however, we will be likely to adopt different priorities from those inherent in the President's budget".

**Congressman Joel Pritchard** has spent a great deal of time studying and analyzing both the positive and negative aspects of S. 1, a bill to revise the federal criminal code. The 700 page bill calls for a total revamping and consolidation process for the purpose of improving the criminal justice system and making the system more effective.

According to Pritchard, the negative aspects of



**Congressman Joel Pritchard**

the bill are too numerous to make the bill worthy of a favorable vote. The First District Representative has concluded that he will not support S. 1 in its present form, not will he react favorably on the bill if the amendment process fails to rectify "its many objectionable provisions."

Pritchard recognizes the importance of criminal code revision legislation ultimately being adopted. Currently, says the Congressman, the criminal code "is a hodge-podge of individual statutes drafted at different times by different people to deal with individual problems as they arise." He observes that the current code is not up-to-date and is often inconsistent.

What is needed, says Pritchard, is to bring greater clarity, coherency, and uniformity to the criminal law, resulting in a rational, predictable and consistent code which would more readily assure equal treatment for all under the criminal justice system.

Moving to the corresponding subject of victims of crime, Congressman Pritchard notes that he is working on legislation that will aid innocent victims to recoup the financial loss they have incurred as a result of injuries sustained from criminal acts. Recognizing that such reimbursement cannot begin to compensate a person for mental anguish and physical injury, Pritchard believes that it can ease the burden of doctor's bills and attorney's fees. This bill, he says, ensures that



Neal J. Shulman currently serves as a trial attorney for the Criminal Division, United States Department of Justice, in Washington, D.C. He is a 1964 graduate of the University of Washington Law School, a former Chief Deputy Prosecutor for King County, and former City Attorney for Richland, Washington.

those truly in need will benefit. "It will not provide aid to those who are able to absorb the loss. The first priority should be those who are hardest hit — the poor, the elderly and the disabled."

Noting that citizens of Washington State are fortunate to have a victim's compensation program, Pritchard believes the program is rapidly going broke and is in urgent need of federal funds. "This bill would provide those funds."

The energy crisis is of extreme importance to **Congressman Mike McCormack** of the Fourth District. McCormack notes that "our National Security, the stability of our economic system, and our political institutions, and even the safety of our streets may well depend on our ability to develop responsible energy policies and rational programs to implement them."

While the concept that we must not waste energy is universally accepted, McCormack observes that too few people recognize that the total energy consumption of the nation must continue to increase far into the future, even if successful conservation programs are established. Thus, McCormack believes, a systems approach to an

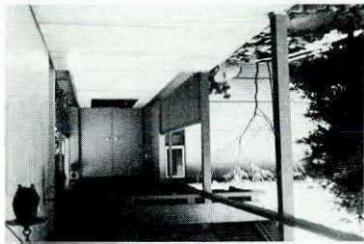


**Congressman Mike McCormack**

integrated national energy policy must now be developed, not only to eliminate waste and conserve energy, wherever practical, but also to produce the energy that will be needed in the future.

A three cornered equilibrium should exist, the Congressman points out, "between energy conversion, transmission, and consumption in one corner, a reasonable and rational program for protecting our environment and conserving our resources in the second, and the maintenance of a stable and responsive economic system in the third corner. . . . We have several 'environments' to protect all at the same time" he says, including the "environment of the job market, and an industrial capacity" that will maintain the nation's national security and economic stability, as well as to provide energy for a decent standard of living for low income Americans.

Energy research may provide the ultimate long range solution, McCormack points out, however, as our supplies of petroleum and natural gas dwindle, the nation will become virtually dependent on coal and nuclear fission as a transitional and short range source of energy. We must think, he says, in terms of tripling coal production by the end of this century, and notes also that we are fortunate in that the nuclear industry is ready now to provide much of the energy the nation will need during the next fifty years. □



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## CODE OF PROFESSIONAL RESPONSIBILITY COMMITTEE

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### **Serving as a Secret Conduit for Campaign Contributors**

TO: The Board of Governors

FROM: W. Ronald Groshong, Chairman;  
Code of Professional Responsibility  
Committee

You have referred to the Committee on the Code of Professional Responsibility the Resolution submitted by Marvin Durning relating to lawyers and law firms serving as secret conduits for campaign contributions. You have requested our consideration, report and recommendation.

It is the opinion of this Committee that the Resolution covers conduct already proscribed by the Code of Professional Responsibility and is therefore unnecessary.

It is further the opinion of this Committee that the Code of Professional Responsibility need not and should not be changed or amended in this or any other instance to cover narrow or specific areas of conduct such as this. The range of potential unethical conduct within the profession presents almost infinite possibilities and if the Code is to be workable it must, by and large, address itself to broad principles.

The thrust of the Resolution, as we read it, is directed at the acceptance of money by a lawyer with the explicit or implicit understanding that the money will be used for political contributions. The Resolution is not entirely clear on the point but the apparent object or motivation would be to obscure the identity of the donor. If the conduct is limited solely to this, the involved attorney would at the very least be guilty of participating in a clear evasion of the spirit and letter of R.C.W. Chapter 42.17 (See R.C.W. 42.17.010 (1) which declares as the purpose of the act

“that political campaigning and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided”.

This title is not a Criminal Statute but does carry a civil penalty of not more than \$10,000 for each such violation (R.C.W. 42.17.390).

DR 1-102 provides that a lawyer shall not (4) “engage in conduct involving dishonesty, fraud, deceit or misrepresentation”.

We are sure that the proponents of this Resolution had in mind other objectives and problems. The Resolution refers to shielding the contributions from public disclosure which, we take it, means more than shielding the contributor from public disclosure. The letter from Mr. Durning accompanying the Resolution makes it clear that he is concerned with the acceptance of political contributions by a lawyer candidate under the guise of attorney’s fees. As we read it, the Resolution does not actually cover this.

In any event, such conduct (the acceptance of political contributions under the guise of attorney’s fees) would appear to be a direct violation of Chapter 42.17 (See R.C.W. 42.17.090 (1.b). This conduct would appear to violate DR 1-1-02 (4), cited above, and other sections of the Code of Professional Responsibility, including DR 2-106 (a) Prohibiting the collection of an illegal fee, and DR 2-102 (a). Prohibiting a lawyer from knowingly engaging in illegal conduct.

In summary, this Resolution or a change in the Code along the lines of the Resolution would accomplish little other than to direct that lawyers comply with the Public Disclosure Act. This does not strike us as an appropriate addition to the Code of Professional Responsibility.

One other comment might be in order. The adoption of this Resolution or an amendment to the Code along the lines of this Resolution would imply that such conduct was not theretofore covered by the Code. This would be misleading.

### **Opinion 163 Letterhead—Listing of Legal Interns and Lay Persons**

A question has been raised concerning the ethical propriety of placing the name and designation of a legal intern, under Supreme Court AP Rule 9, or any lay person, on the letterhead of a public or private law firm.

The practice of listing lay persons on letterheads has previously been deemed unethical by

the American Bar Association and by the Washington State Bar Association. See WSBA Opinion 131.

It is the opinion of the Board of Governors that listing of legal interns on letterheads of public or private law firms should not be permitted. The Code of Professional Responsibility, DR 2-102 (A) (4) should not be interpreted to allow such listing even though a limited license has been granted by the Washington State Supreme Court.

The CPR Committee and the Board of Governors affirms the continuance of the existing prohibition against listing of the names of law clerks, para-legals, or other lay persons on letterheads. A listing of a non-lawyer on a letterhead would constitute, or could be construed to be, self-laudation, image-building, or "puffing" and would be contrary to the spirit of the Code, since it would tend to impress upon those seeing the letterhead the size, importance and efficiency of the firm. See ABA Informal Opinion 845.

## Opinion 164 Business Cards— Paraprofessionals and Other Lay Persons

Regarding the propriety of designating the names of lay persons on business cards of public or private law firms — such practice has long been permitted. See ABA Informal Opinion 909, 1000 and 1185.

The CPR Committee agrees with the ABA that there is a distinction between the business card and the letterhead, in that the card is the employee's and is designated to identify him during personal contact with the public. It is not the card of the lawyer or firm. It merely identifies the employee and his association with a law firm, whereas a letterhead is the lawyer's. The desired objective may be accomplished by simply having the para-legal employee sign a letter and designate his/her status after his/her signature.

The CPR Committee adheres to the general rule that the names of non-lawyers may appear on such business cards with terminology showing the general status of the layman, such as "Investigator," "Para-legal," "Clerk," etc. However, no further identification as to any expertise, specialty or limitation of such employee (e.g. "Legal Assistant in Probate and Real Estate Matters") would be proper. Such would be deemed to constitute a form of advertising and a designation of specialization not permitted under the Code of Professional Responsibility. □

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**SUPREME COURT PRACTICE**

By **JOHN J. CHAMPAGNE**

*Supreme Court Clerk*

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**COURT ADMINISTRATOR**

By **PHILIP WINBERRY**

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43882 — *State v. Kent and Hammon*

Is RCW 46.65.060 which authorizes a stay of the revocation of an habitual traffic offender's operator's license if his offenses were related to alcoholism for which he has undergone approved treatment, but which does not afford the same opportunity for a stay to an offender whose violations were not alcoholism related unconstitutional?

43722 — *City of Seattle v. Rainwater*

Are the provisions of WAC 448-12-020, relating to the administration of the breathalyzer test, mandatory?

43884 — *Latham v. Hennessey*

Is the rule of *Creaseman v. Boyle*, 31 Wn.2d 345, 196 P.2d 835 (1948) which provides that property acquired by a man and a woman not married to each other, but living together as husband and wife, is not community property and, in the absence of some trust relation, belongs to the one in whose name the legal title to the property still valid in the State of Washington?

43871 — *Simpson Timber Company v. Olympic Air Pollution Authority*

Whether an open burning permit properly issued by the Department of Natural Resources exempts the permit holder from compliance with particulate emission regulations enforced by the Olympic Air Pollution Control Authority?

43838 — *In re Harry Daniels v. Washington*

Does the Fourth Amendment to the U.S. Constitution apply to juvenile court proceedings to determine whether the juvenile has violated his probation by allegedly committing a delinquent act during his probation?

Chief Justice Charles F. Stafford announced the recent appointment of Joan Smith Lawrence as the first Senior Administrative Attorney for the Supreme Court. "After a statewide search, with the assistance of a committee of lawyers, we selected an attorney who is not only experienced in both claimants and defense work, but one who has had experience in both state and federal practice," said Chief Justice Stafford. Ms. Lawrence has also devoted much time as Administrative Coordinator of the Washington Pattern Jury Instructions Committee for several years.

A graduate of the University of Washington Law School, she was a member of the Order of the Coif. Admitted to practice in the State of Washington in 1969, Ms. Lawrence's affiliations include: Washington State Bar Association; Seattle-King County Bar Association; American Bar Association; Washington State Trial Lawyers Association; Washington Women Lawyers, and American Judicature Society. In 1974, Ms. Lawrence served as a magistrate of the Seattle Municipal Court and a judge pro tempore. She also has extensive experience in many facets of trial court practice.

In a speech before the Spokane County Bar Association on January 30, the Chief Justice outlined the court's need for "a Senior Administrative Attorney to conduct and supervise legal research, prepare research memoranda and make recommendations . . . although . . . final decisions would rest with the Supreme Court." Basing his remarks on a National Center for State Courts report analyzing both the states appellate courts, the Chief Justice suggested other responsibilities which are an essential part of the Senior Administrative Attorney's duties: assistance to the Supreme Court in researching extraordinary writs, motions, certification of cases, screening of cases, recruitment, selection and training of law clerks.

The National Center's report reflects statistical data and work load analysis demonstrating the rising number of Petitions for Review of Court of Appeals decisions which must be studied for determination of acceptance. In 1974, 205 such peti-

tions for review had to be studied by the Supreme Court, along with briefs filed in the case and the Court of Appeals opinion just to determine sufficient merit for trial. The process is time consuming and therefore leaves less time for daily caseload matters such as researching and writing opinions. "The job is a challenge, and I look forward to a continuing challenge in an effort to make this position a valuable auxiliary to the Court," said Joan Smith Lawrence.

With the appointment of Ms. Lawrence, the Supreme Court can look forward to more time for researching, opinion writing and hearing cases. Not only should the case production be expedited, but in-depth analysis on individual cases should improve. "While we are just getting underway with this new undertaking, we can see that it will relieve judges and their law clerks of numerous hours of wheel spinning," said Chief Justice Stafford.

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## JUDICIAL COUNCIL REPORT

By **KARL B. TEGLAND**

*Judicial Council Atty.*

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In the May, 1974 edition of the Bar News, I described the efforts of the Judicial Council to establish new rules of procedure for the Supreme Court and Court of Appeals. The article provided an overview of the new rules, as then proposed, and highlighted some of the more significant departures from prior practice. Since that time, the new rules were approved, with some amendments, by the Judicial Council and by the Supreme Court. They are scheduled to take effect on July 1, 1976. 86 Wn.2d 1133-1335 (1976). The new rules are for the most part, as described in the 1974 article. Some amendments, however, were made subsequent to that article. I would like to take the opportunity here to describe some of the more significant amendments.

1. The rules proposed in 1974 provided that the original papers in the trial court file would be used as a part of the record on appeal, eliminating the need to buy certified copies. The final draft of the rules provides that the original papers remain with the trial court and that photocopies will be used in preparing the record. Certified copies, however, are not required. The rules direct the superior court clerk to provide copies at cost, not

to exceed 20 cents per page.

2. The earlier proposed rules required no assignments of error in the appellant's brief. Instead, the appellant would have listed issues presented for review, as is done in federal practice. The rules as adopted by the Supreme Court reinstate assignments of error and, in addition, require a list of issues presented for review. In a number of cases, the court has declined to consider an argument in the absence of a proper, corresponding assignment of error. See, e.g., *State ex rel. Schoblon v. Anacortes*, 42 Wn.2d 338, 255 P.2d 379 (1953). The extent to which these older cases apply under the new rules is not entirely clear. A somewhat more lenient approach is suggested by Rule 10.3(g), which provides, in part, "The appellate court will only review a claimed error which is included in an assignment of error or clearly disclosed in the associated issue pertaining thereto."

3. The new rules incorporate the settlement conference presently used on an experimental basis in the Court of Appeals. The procedure is described by Judge Pearson in the February, 1976 edition of the Bar News, page 39.

4. Unlike the rules originally proposed, the new rules now require the filing of a motion for reconsideration in the Court of Appeals before seeking review of the Court of Appeals in the Supreme Court. Rule 13.2. This requirement is also found in the old rules. ROA II-2, CAROA 50.

5. The procedures for original appellate court proceedings challenging personal restraint have been modified. The new rules now reflect the approach taken in *Wright v. Morris*, 85 Wn.2d 899, 540 P.2d 893 (1975) and are described in more detail in the March, 1976 Judicial Council Report.

These are only some of the more significant amendments to the new rules. Numerous, relatively minor changes were made but are not described here. The reader is cautioned that the March, 1974 draft (distributed by West Publishing Co.) has been superseded and that only the rules and comments appearing in the February 13, 1976 Washington Reports are accurate.

A major CLE program on the new Rules of Appellate Procedure will be held during the fall of 1976. □



**AGO No. 14 Courts — Juvenile — Crimes — Offices and Officers — State — Department of Social and Health Services — Jurisdiction of Department Over Delinquent Juveniles Upon Attainment of Age Eighteen.**

Except where covered by a juvenile court order under § 1, chapter 170, Laws of 1975, 1st Ex. Sess., in the case of a juvenile in the custody of the department of social and health services who was not yet 18 when that law became effective, a juvenile who has been adjudged to be a delinquent child under RCW 13.04.010, et seq., and has therefore been committed by the juvenile court under RCW 13.04.095, may not, in view of *In re Carson*, 84 Wn. 2d 969 (1975), continue to be held in custody solely on that basis after attaining the age of 18 years.

**AGO No. 15 Offices and Officers — State — Department of Motor Vehicles—Public Records—Access to Lists of Individuals Under Initiative No. 276.**

(1) In the absence of specific legal authorization or direction, a public agency governed by Initiative No. 276 (chapter 42.17 RCW) is prohibited by RCW 42.17.260(5) from supplying the names of natural persons in list form when the person requesting such information from the public records of the agency intends to use it to contact or in some way personally affect the individuals identified on the list and when the purpose of the contact would be to facilitate that person's commercial activities.

(2) Application of above principles to several specific factual situations involving records in the custody of the state department of motor vehicles.

**AGO No. 16 Gambling — Lotteries — Crimes — Applicability of Chapter 9.46 RCW to Sports Pools and Certain Dice or Card Games.**

The proprietor or owner of a restaurant, tavern, coffee shop or similar establishment would be engaged in the conduct of prohibited gambling activities within the meaning of chapter 9.46 RCW if such proprietor or owner, without

other participation in the game, were

(1) To maintain on the premises for use by its patrons, customers or others a board, sheet or other similar paraphernalia to be used in the conduct of a football, baseball or other sports pool, and in connection with such pool were to assign scores, receive wagers and distribute anything of value to a contestant, although without fee, commission or other profit for such services;

(2) Except to the extent of card games licensed under RCW 9.46.030, to furnish dice or playing cards to patrons, customers or others on the premises of the establishment to be utilized by such persons for gambling in order to determine which person in their number shall pay the cost of the meals, drinks or other sustenance purchased on the premises;

(3) To maintain on the premises for the convenience of his patrons, customers or others, any of the aforesaid devices which are in fact owned by such persons and utilized by them for the purposes set forth in (2) above.

**AGO No. 17 Counties — Highways — Roads — Police Power — Mandatory Removal of Sight Obstructions From Private Property.**

(1) A county ordinance adopted under Article XI, § 11 of the state constitution may not require the owner of land abutting a county road intersection, without compensation, to remove pre-existing trees and other vegetation or structures from within a prescribed distance of the intersection in order to provide an unobstructed view across the owner's land for vehicles approaching the intersection.

(2) A county may, however, secure the removal of such sight obstructions at an intersection by exercising its constitutional powers of eminent domain.

**AGO No. 18 Counties — Police Power — Ability to Establish Day Care Services in Absence of Specific Statutory Authorization.**

There is a sufficient basis in Article XI, § 11 of the Washington constitution for upholding a

properly drawn ordinance by which a county, including one which has not adopted a home rule charter pursuant to Article XI, § 4 of the constitution, would establish day care services for the children of working mothers who are residents thereof; the appropriate tests for determining the validity of such an ordinance are (1) whether the enactment falls within the range of concerns which the courts have recognized as acceptable areas for the exercise of the police power and (2) whether the measure represents a reasonable method of reaching an objective of that power.

**AGO No. 19 Offices and Officers — County — Sheriff — Residence Requirement for Deputy Sheriff.**

In view of the amendment of RCW 41.14.100 by § 3, chapter 95, Laws of 1963, a deputy county sheriff is not required by state law to be a resident of the county which he serves.

**AGO No. 20 Labor — Collective Bargaining — Public Employees — Governor — Veto — Effect of Partial Veto of Chapters 288 and 296, Laws of 1975, 1st Ex. Sess. Upon Remaining Provisions.**

(1) Because the governor's veto of § 2 of Substitute Senate Bill No. 2408 (chapter 296, Laws of 1975, 1st Ex. Sess.), the public agencies now responsible for the performance of the functions thereby proposed by this act to be transferred to a new "public employment relations commission" will continue to perform those functions after September 8, 1975, in the absence of further legislative action.

(2) In view of the governor's veto of § 4 of Substitute Senate Bill No. 2500 (chapter 288, Laws of 1975, 1st Ex. Sess.), certificated school district employees will, in the absence of further legislative action, continue after January 1, 1976, to be governed by the provisions of the school employees' professional negotiations act (chapter 28A.72 RCW), notwithstanding the express repeal thereof by the 1975 act, except to the extent that such provisions of the new law as are unaffected by the veto are in conflict with

the earlier law.

(3) Administration of the provisions of chapter 288, Laws of 1975, 1st Ex. Sess., and chapter 296, Laws of 1975, 1st Ex. Sess., following their respective effective dates, by a new state agency will be unnecessary unless the governor's vetoes of portions thereof are overridden by the legislature or the vetoed sections are reenacted in a different form.

**AGLO No. 49 Pensions — Retirement — Leff — Provision of Eyeglasses to Law Enforcement Officers and Fire Fighters.**

Eyeglasses are included within the scope of "medical services" to be provided for under RCW 41.26.150 in view of the definition of that term in RCW 41.26.030(22).

**AGLO No. 50 Pensions — Retirement — Funding Post-Retirement Benefit Increases.**

In the event of their receipt of investment earnings sufficiently in excess of actuarially determined general funding requirements to fully fund the post-retirement cost of living pension increases provided for by RCW 41.40.195(5) and RCW 41.32.499(6), neither the public employees' retirement board nor the board of trustees of the teachers' retirement system, respectively, may, nevertheless, finance such pension increases through increased employers' contributions or, in the case of the teachers' retirement system, by requesting increased state appropriations.

**AGLO No. 51 Pensions — Retirement — Admission of Elected Officials to Public Employees' Retirement System.**

A member of the council of a city which has been admitted into the public employees' retirement system may elect to join the system himself at any time during his term of office without violating Article XI, §8 or Article XXX, §1 (Amendment 54) of the state constitution; and the city which is involved may constitutionally make, on behalf of the council member becoming a member of the retirement system, the employer's contributions required by RCW 41.40.361. □



## Regional Results of International Law Moot Court Competition

The University of Oregon School of Law team won the 1976 Northwestern Regional Round of the Philip C. Jessup International Law Moot Court Competition held at the University of Puget Sound School of Law in Tacoma on March 5 and 6. Runners-up in second place were law school teams from the University of Puget Sound, the University of Washington, and Willamette University. Third place went to the team from Lewis and Clark, Northwestern School of Law.

## Golden Gate University

### Five Graduate Tax Courses to be Offered

Golden Gate University's Graduate School of Taxation will offer five courses in Seattle in the Summer Semester which begins June 7 and ends September 16, 1976.

The courses are open to students wanting to earn the M.S. degree in Taxation and to nondegree students interested in specific courses. Classes are limited to 24 students. Most of the students are accountants or attorneys. CPAs and LPAs can earn up to 45 hours of continuing education for each course.

Each of the following classes will meet once a week from 6:15 to 9:00 p.m.: *Federal Income Taxation of Individuals*, Mondays, Vincent A. Gervais, CPA; *Federal Income Taxation of Corporations and Shareholders*, Tuesdays, John W. Flynn, LL.M. (Tax), Attorney at Law; *Federal Tax Procedure*, Wednesdays, Darrell D. Hallett, JD, Senior Trial Attorney, Regional Counsel's Office, Internal Revenue Service; *Taxation of Capital Assets*, Wednesdays, Marion V. Larson, CPA, LL.M. (Tax), Attorney at Law; *Tax Research and Decision Making*, Thursdays, Joseph M. Gaffney, LL.M. (Tax), Attorney at Law.

Registration will begin May 10. For further information, write or phone Golden Gate University, 935 White Henry Stuart Building, 1318 Fourth Avenue, Seattle, Washington 98101; telephone (206) 622-9996.

## Gonzaga

Dean Smithmoore P. Myers, of the Gonzaga Law School, announces that Professor Vern Davidson and Professor Lewis Orland have accepted appointments as associate deans of the law school. The appointments have been approved by the law faculty, and the University administration. They are effective June 1, 1976. The two new deans will both be concerned with aspects of the internal administration of the law school. In addition, Dean Orland will have certain external assignments in connection with law alumni and bar association relations.

Dean Myers said: "The two men are among the most highly respected on our faculty, and their willingness to serve as associate deans gives promise of further substantial improvement in our administrative procedures. Each professor, by his own choice, will continue to carry substantially a full teaching load."



Vern Davidson and Lewis Orland

Dean Orland, a graduate of the University of Idaho, and of the Harvard Law School, has served as a teaching fellow at the University of Geneva, Switzerland, and as a United States Naval Attache in Chile and Venezuela. He is the author of *Washington Rules Practice*, the definitive work on Washington court procedure. He is a member of the Washington Pattern Jury Instructions Committee, and of the State Judicial Council. He served as dean of the Gonzaga Law School from 1968-1973, and the day division was established under his direction in 1970.

Dean Davidson, who joined the Gonzaga law faculty in 1974, is a graduate of U.C.L.A., and of its law school. He has taught at Columbia Univer-

sity Law School, and was the founding dean of the University of Malawi Law School, where he served for ten years. His subjects are Contracts, Conflicts of Law, and Wills.

## UPS

### Justice Honors Program

Monica Lamont is the first UPS Law School graduate to be selected for employment with the Department of Justice through the Attorney General's Employment Program for Honor Law Graduates. This is a select program, open only to law graduates throughout the country who rank among the top ten percent of the nation's law graduates. Honor Law Graduate appointees will be assigned to positions affording both valuable legal experience and substantial individual responsibility within a relatively short time. Ms. Lamont was one of 100 graduates selected from

the 165 accredited law schools in the United States.

## Willamette University

The new year has brought its usual hectic pace at the Willamette University College of Law. Among the highlights on the early spring calendar, three are especially noteworthy.

The first Northwest Regional Mock Trial Competition ever held was on the Willamette campus in late January. Several state and federal judges and local attorneys participated as judges for the three-day event. The case involved contract law, negligence, warranty and strict liability. Eight teams participated including two from the University of Washington.

A Federal Criminal Practice Seminar was jointly sponsored by the Federal Public Defender and the College of Law on February 21, 1976. Among the special speakers were U.S. District Court Judge Otto R. Skopil, Multnomah Circuit Court Judge Robert E. Jones, and John Cleary, Federal Public Defender of the Southern District of California. A 230 page handbook dealing with practical issues in Federal criminal practice is still available through Jerry Todd, Assistant to the Dean.

Tony Mathews, Dean of the Law Department of the University of Natal, South Africa, was guest of the College of Law February 23. He delivered a lecture on "Terrorism Laws in South Africa" and led a faculty seminar on legal education. □



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## CRIMINAL LAW SECTION

By EDWARD G. HOLM

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One of the major problems of getting a Bar Association section to work with some concerted action in the interest of all its members is the lack of communication between its officers and members. The normal method of such communication is the use of a section newsletter sent out separately to the section members. At the first meeting of the section that I attended, the subject was raised and it was found that a relatively small mailing of the section newsletter would cost over a \$1,000 per year. The \$5 membership dues set for the Criminal Law Section could not take such a drain on the budget. We hope to remedy the situation by putting a small newsletter in the monthly Bar News. Using this as a beginning, we hope to expand to a section newsletter as our membership grows.

The Executive Committee of the Criminal Law Section met on November 1 and 15, 1975, and January 17, 1976, in the King County Courthouse. The dates for the CLE seminar on the new Criminal Code were tentatively set as May 21 in Yakima, May 28 in Olympia, June 4 in Seattle and June 11, in Spokane.

An election was held and the following individuals were elected to fill the vacancies created by the Board of Governors' approval of our petition to extend the number of members on the Executive Board. Elected were: Mr. Jerry McCormick, Prosecuting Attorney for Okanogan County; Francis Conklin, Spokane, Washington; David A. Thorner, Yakima, Washington; and Ruth Ellen Wagner, Marysville, Washington.

Discussion was held concerning the specialization status. It was reported by Pat Aitken that our petition was in the Specialization Committee level, but had not been submitted to the Board of Governors. Pat Aitken also reported that our form appeared to be O.K., and our petition was under advisement.

It was agreed that the next meeting would be

held on March 6, 1976, in the Honorable Frank Sullivan's courtroom at 10:00 a.m., at Room E338, King County Courthouse, Seattle, WA 98104.

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## TAXATION SECTION

By MALCOLM KATZ

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### Important Federal Tax Changes

In *Estate of Lang vs. Commissioner*, 64 TC No. 38, the Tax Court was presented with a situation in which a decedent made a gift in contemplation of death and incurred a liability for Washington State gift taxes, but died before the gift taxes had been paid. The gift was includable for Washington inheritance tax purposes, and the Washington State gift tax, which was paid posthumously, was accepted by the State Department of Revenue as a credit against the inheritance tax. The Tax Court held that the Washington gift tax was allowable as a deduction from the gross estate as a claim against the estate under Section 2053 of the Internal Revenue Code, even though the estate had claimed and had been allowed by the I.R.S. to include the amount of the gift tax in the credit for state death taxes under Section 2011 of the Code.

The Court recognized that their decision gave the decedent's estate a double advantage for state gift taxes paid, i.e. both a credit and a deduction, but found that the same result would have been reached had the gift taxes been paid prior to the decedent's death, instead of afterwards. Finally, the Tax Court rejected the I.R.S.'s argument as set forth in Revenue Ruling 71-355 that inasmuch as the state gift tax has always been treated by them as part of the state death taxes and therefore allowable on the federal estate tax return as a credit, that the state gift tax should also be treated like an inheritance tax for deduction purposes, and therefore disallowed under Section 2053. In so holding, the Court found that the I.R.S. was engrafting a doctrine of 'a constructive state inheritance tax' into the applicable statute, and that there was absolutely no legislative history or case authority providing for such a theory.

The Court's finding was also based upon the fact that federal gift taxes are allowed both as a credit against the federal estate tax and also as a deduction, although unlike Section 2012 which has to do with the credit for federal gift taxes, Section 2011 does not say that the credit for state gift taxes is allowable even though the gift taxes have been deducted as a debt of the estate. Nevertheless, a unanimous Tax Court held that the deduction in question was specifically supported by Section 2053 and the regulation interpreting that statute.

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**ENVIRONMENTAL LAW  
ENERGY SUBSECTION**

*By* **KAY DENNIS JONES**

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At a recent Board of Governor's meeting the Washington Bar Association, by resolution, authorized the establishment of a new subsection of "Energy Law". It was suggested that this new group or subsection would logically fall within the broad parameters of the Environmental Law Section.

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The general consensus of interested attorneys is that this field of the law is having and will continue to have a greater impact on our practice in the future. With the added emphasis on the research and development of energy to meet the needs of the world and the increased establishment of hydroelectric, nuclear and fossil fuel energy production plants and the development of energy parks throughout the world, this area of the law has been brought to the foreground.

With the prime concept in mind that if those who are interested in this area of the law were to periodically meet for an exchange of concepts, experiences and ideas and possibly sponsor seminars and continuing legal education programs, that the general bar and those with special interests in this field would greatly benefit. Interested persons should contact the Subsection and indicate of the following areas their particular interests: Energy Production, Nuclear, Solar, Hydro-electric, Fossil Fuel, other.

*Fill out and mail to Environmental Law Section, Energy Subsection, Washington State Bar Assn., 505 Madison St., Seattle, WA 98104.*

**Energy Production**

- Nuclear
- Fossil Fuel
- Solar
- Hydroelectric
- Other (Specify)
- No Interest

*Comments:*

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### Seminar on Confidential Disclosures

The Intellectual and Industrial Property Section of the Washington State Bar Association will have a free 1½ hour Seminar on Thursday, June 3, 1976 in the Rex Room of the Olympic Hotel starting at noon. The Seminar is entitled "The Art of Confidential Disclosures or How to Have Your Cake and Eat It Too," and will cover various confidential relationships common in the transfer of proprietary technology, including discussions of typical contract provisions useful in protecting the various relationships. Sample contract forms will be distributed.

Please notify the Washington State Bar Association Office if you plan to attend. The Seminar is open to all members of the Association.

### Interested Persons Encouraged to Sign Up for Next Year's Committee Memberships

Membership applications are now being taken for State Bar committees to be formed for the 1976-77 fiscal year. If you would like to take part in these important Bar activities, please send your name and your first, second, and third committee preferences to the Committee secretary, State Bar Office, by June 1. Committee terms begin on October 1, 1976. The following committees are active in the work of the Bar, and your participation is encouraged.

Bench-Bar-Press, Board of Bar Examiners, Civil Rights, Code of Professional Responsibility, Contemporary Problems

and Public Interest Law, Continuing Legal Education, Corrections, Courts and Judicial Selection, Court Rules and Procedures, Disciplinary Board, Editorial Advisory Board, Group and Prepaid Legal Services, International Law, Internship, Interprofessional, Lawyer Referral, Legal Aid, Legal Education Liaison, Legal Services to the Armed Forces, Legislative, Office Practice, Public Relations, Resolutions, Statute Law, Travel, Unauthorized Practice of Law, Attorneys Professional Insurance, and Para-Legal.

### Paperwork Commission

The Office of Advocacy of the Small Business Administration has established some excellent contacts for persons within the small business community who

wish to offer suggestions or voice complaints about specific small business problems. The following is a list of some key contacts which may be of interest to your constituency.

The Commission on Federal Paperwork is eager to hear from the small business community on *specific* paperwork problems which are creating havoc for small business:

Ms. Nancy Lowe  
Senior Ombudsman  
Commission on Federal Paperwork  
111 - 20th Street, N.W.  
Washington, D.C. 20036

### Criminal Defense Meeting

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meeting Saturday, May 15, 1976, at 10:00 a.m., in the office of the Seattle Public Defender located at 623 Second Avenue, Seattle, Washington. The Association is a group of Public Defender attorneys around the State as well as private attorneys dealing in a substantial amount of criminal defense work. Any Public Defender attorney or private criminal defense attorneys interested in participating in this active group are invited to attend the May 15, meeting. For additional information contact Peter Moote, One Yesler Way, Seattle, Washington 98104, 624-8105.

### AAA Relocates

The Seattle Regional Office of the American Arbitration Association has relocated its offices from the Pacific Building to Suite 330 of the Central Building, 810 3rd Avenue, Seattle, Washington 98104. The phone number remains 206-622-6435.

The Seattle Office is the AAA's designated office for the Pacific Northwest and is responsible for all AAA activities in the States of Washington, Oregon, Alaska, Idaho and Montana.

### Commercial Advertising "Very Bad Way" to Provide Information On Lawyers

Commercial advertising is "a very bad way" to supply information about lawyer services, the president-elect of the American Bar Association said today.

"It would be an offense to justice to compete on the strength of our advertising budgets rather than on the quality of our service," continued Justin A. Stanley, Chicago, in a speech prepared for delivery to the mid-year meeting of the State Bar of Michigan.

Stanley pointed out that the policy-making ABA House of Delegates at its midyear meeting in Philadelphia last month amended the ABA Code of Professional Responsibility to permit lawyers to supply more information about themselves in law lists, legal directories and the classified section of telephone directories.

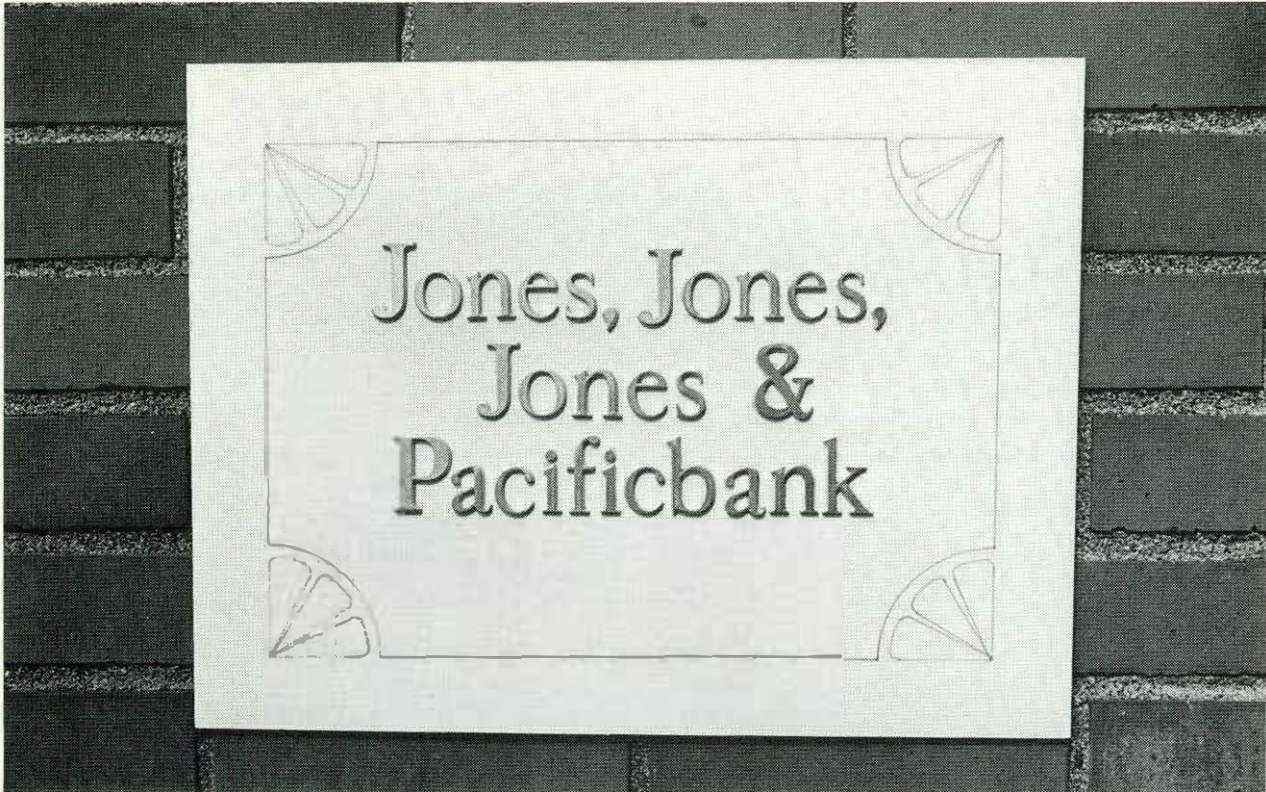
### SKCBA Art Auction

The Young Lawyers Section of the Seattle-King County Bar Association is pleased to announce its annual Art Auction which will be held Friday evening, May 14, 1976, at the Museum of History and Industry. The event will feature the works of northwest artists and craftsmen. Ticket price includes two drinks and the proceeds from the event will be donated to a charitable organization. Tickets will be available at the offices of the Seattle-King County Bar Association, 320 Central Building, Seattle, Washington.

### Board Elections Due

Lawyers residing in the First and Fifth Congressional Districts, please note:

Members of the Board of Governors of the State Bar to repre-



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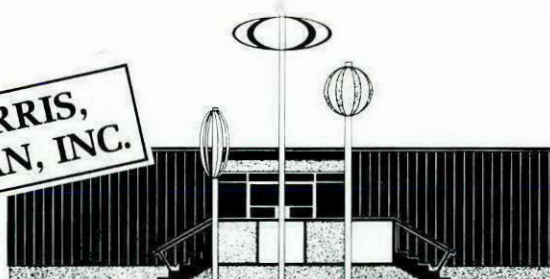
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sent those districts are due to be elected this year. Expiring in September are the three-year Board terms of Richard H. Riddell, First District, and John E. Heath, Jr., Fifth District.

The State Bar Association By-laws (Article III) provide that any active member in good standing may be nominated for the office of Governor from the district in which the member resides upon petition signed by at least twenty but not more than thirty active members also residing in the district.

Nominating petitions may be obtained from the Bar Office, 505 Madison Street, Seattle, WA 98104.

The petition must be filed in the Bar Office by 5 p.m., Saturday, May 31, 1976.

**In Memoriam**

**Granville Egan**, 71, of Republic, died April 3. He was admitted to the Bar in 1930.

**Justice Robert C. Finley**, 70, of Olympia, died March 24. He was admitted to the Bar in 1941.

**David McLean**, 73, of Longview, died March 8. He was admitted to the Bar in 1941.

**William Lee Parr**, 64, of Olympia, died April 1. He was admitted to the Bar in 1938.

**Irving D. Smith**, 85, of Seattle, died March 27. He was admitted to the Bar in 1921.

**Discipline Action**

**Robert S. Egger**, Seattle, was disbarred from practice of the law on March 25, 1976.

**Robert G. Kerr**, Tacoma, was disbarred from practice of the law on April 1, 1976.

**For Sale:** Washington Digest, w/o pocket parts. Make Offer. Call 493-1236, White Salmon.

**For Sale:** Federal Second, Federal Rules Decisions, ALR2d, ALR3d, ALR Federal, with digests and desk books, etc; AM Jur 2d, Ma Jur Pleading and Practice Forms, Am Jur Legal Forms, Am Jur Proof of Facts, extremely reasonable, John Caughlan 324-3500, Seattle.

**For Sale:** 1 slightly used Stenocord transcriber / dictator with all accessories, including dictating stand. Purchased new. Used for 8 months on maintenance contract. Total investment in system - \$450.00; for sale - \$225.00. Contact Karen or Jan,

P.O. Box 10400, Bainbridge Island, 842-5681.

**Will Sought:** for Rossella B. Calegon. Could have been made in the summer months of 1975. If anyone has any information Please contact Romona Denney, 19125 SE 400St., Enumclaw, Wash. 98022. 825-1422.

**Wanted To Buy:** Legal size oak or wooden file cabinet. Please call E. Gary Donion, 682-6644, Seattle.

**Space available:** Bank of California Center, Seattle, Washington, for two lawyers in new 8-lawyer suite. Use of law library, conference room, and receptionist services. Call 682-1780, Seattle.

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**Space Available:** Office space for one attorney in four man suite, 10th floor, AGC Building, Seattle. Lake Union view. Library / conference room. 284-0430, Seattle.

**For Sale:** Wash. 2d, WA, Wash. Dig., Wash. Prac., Shepards, RCWA. New December 1975, \$3,480.00 new, take over balance \$3,159.00 at \$65/mo., interest free. Current. Free supplements through December 1976. Steven Fields, 722-3929, Seattle.

**Space Wanted:** Young Attorney seeks office sharing arrangement in Seattle-King County area. Call 523-4250, Seattle.

**Law Books For Sale:** RCWA, ALR3d and Fed, indices, Trial Series, USCS, all current but USCS. Make offer. Lee Holley, 842-3973, Seattle.

May 3, 4, 5 National Conference on Law Office Economics and Management. Information: Write Continuing Legal Education, Centre for Continuing Legal Education, University of British Columbia, Vancouver, B.C. V6T 1W5 or telephone: (604) 228-2181, local 213.

May 28 *Practice Under the New Criminal Code;* 1-6 p.m., Greenwood Inn, Olympia; Mark Vovos, Spokane, Chairman.

June 3 Intellectual & Industrial Property Section Seminar entitled "The Art of Confidential Disclosures or How to Have Your Cake and Eat It Too", Noon-1:30, Rex Room, Olympic Hotel, Seattle. No Charge.

June 4 *Practice Under the New Criminal Code;* 1-6 p.m., downtown Hilton Hotel, Seattle.

June 11 *Practice Under the New Criminal Code;* 1-6 p.m., Ridpath Motor Inn, Spokane

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### Lawyer Placement

1. Associate Staff Attorney for an operating electric utility and municipal corporation of the State of Washington. Three or more years experience in contract claims, Washington municipal law, administrative practice before state or federal agencies or in field of municipal revenue bond financing. Location (Southeastern WA.) Send Resumes to: Bar Office, 505 Madison, Seattle 98104, Attn: Box 7.
2. 8-man law firm seeks attorney for litigation w/some experience in actual practice, but not mandatory. Resumes Only to: George S. Martin, 1215 Norton Bldg., Seattle 98104.
3. Lawyer with two to five years experience in general commercial practice wanted by three man firm in Longview, Washington. Salary commensurate with experience. Contact Willard Walker, Longview.
4. Wanted: Independent, aggressive attorney with a minimum of three years varied experience in private practice. Send resume to 3010 First Avenue, Seattle, Washington 98121.
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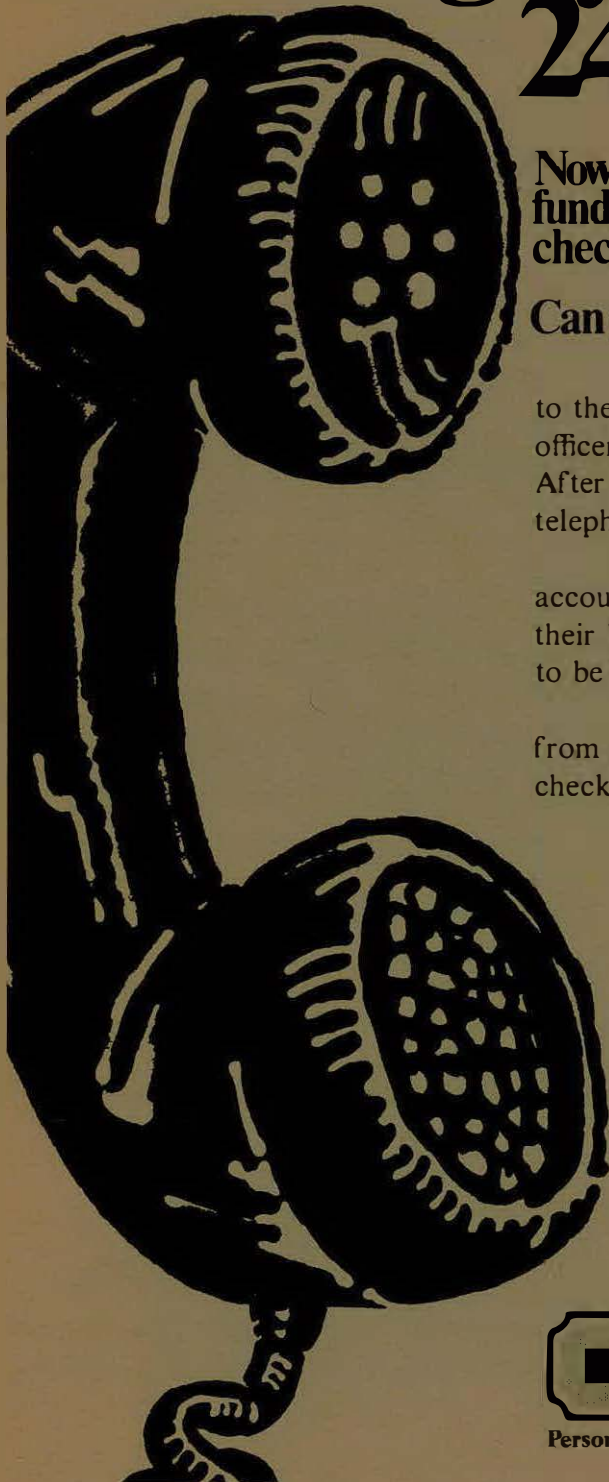
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