Volume 31, Number 10
November, 1977

WASHINGTON STATE BAR NEWS

1977 ANNUAL MEETING REVIEW

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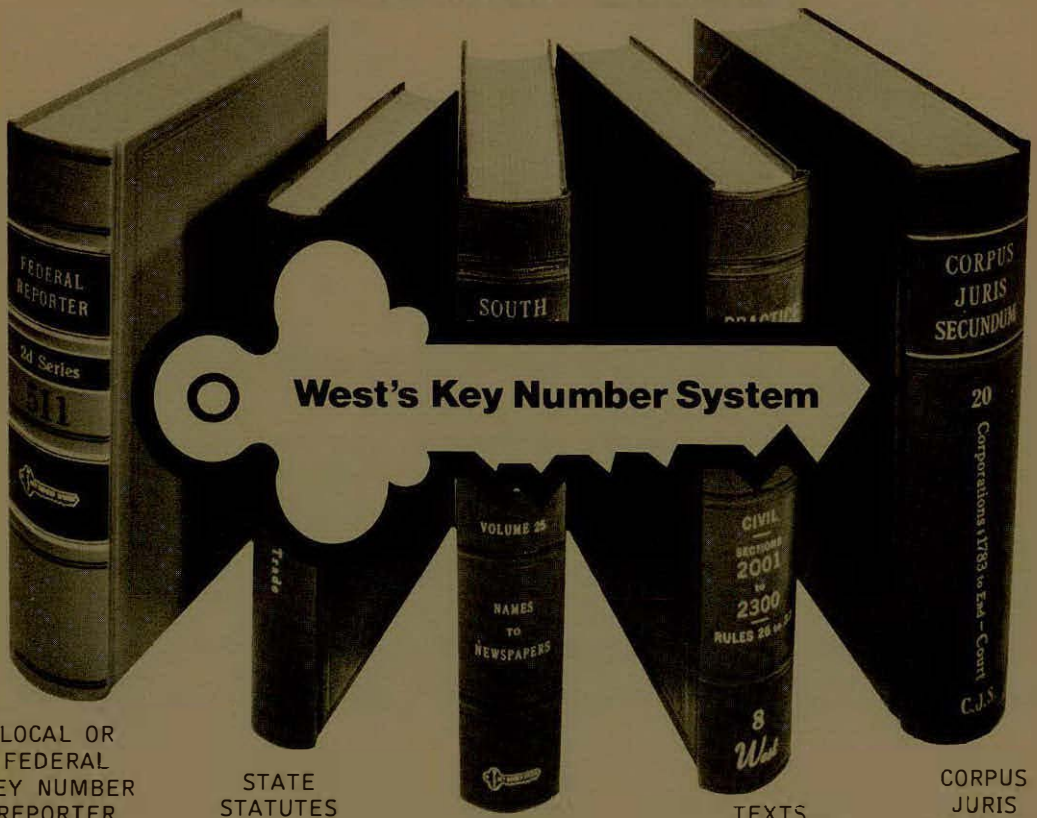

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The facts in this case are true. The names have been changed to conform to the spirit of the ABA Code of Professional Responsibility.

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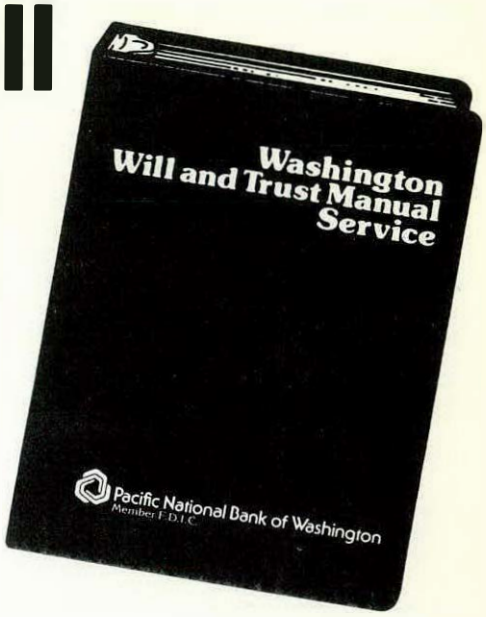

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Jay V. White, *Editor*

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FEATURES

IN THE NEWS

DEPARTMENTS

Our Cover

Annual Convention highlights are reviewed this month including the luncheon address by featured speaker Carl Stern, attorney and NBC News correspondent who covers the Supreme Court and Justice Department. See story on page 12.

Additional Ad Suggested for August/September Editorial

Editor:

Your editorial in the August publication [Editors Page, *Bar News*, August/September 1977] may have been written or accepted with tongue and cheek. However, I enclose a copy of an actual advertisement for services extracted from a newspaper in Hawaii in July of this year. I really believe it belongs with the three advertisements you suggested in your editorial.

JAMES D. SAWYER
Edmonds

Another View on the Alcoholism Question

Editor:

I wish to comment on the letter [*Bar News*, August/September, 1977] entitled "Further Research on the Alcoholism Question." I would like to have the record clarified on the narrowness of Mr. McKinlay's research. As an old Law Review type he has restricted his research to the technical fictions of the common law and the more recent ambiguities perpetrated on us by the state and federal legislatures. My complaint is that he has left out the bulk of us who drink just for the hell of it. Most of us (and I don't care if Harry Cross reads this) couldn't, wouldn't and didn't recognize a "shifting and springing use" in law school, or any of those other "high fallutin Greek" terms.

JIM RABIDEAU
Pasco

A Lawyer/Husband Speaks Out

Editor:

I note with interest — in this new era of lawyer advertising — that a prominent member of the Denver Bar is the husband of one of the Annual Meeting speakers, Marilyn Van Derbur.

Possibly it should be pointed out that a country lawyer from Lacey, Washington, is the husband of the other speaker, Diane Oberquell.

ARGAL D. OBERQUELL
Lacey

Client's View of "Justice"

Editor:

I am enclosing herewith a copy of a poem written by one of my clients. I thought you might be interested in publishing the same in your publication.

J.I. HOLLAND
Vancouver

JUSTICE

Justice, as defined by
Mr. Webster
Is the quality of being just.
Rectitude in dealing with others,
Impartiality is a must.

The administration of the law
With fair and honest intent,
Especially in assigning
Deserved reward or
punishment.

The rightness or integrity of
principals
And behavior proudly stand
Against misdeeds, unfairness,
And man's inhumanity
to man.

The endurance of our society,
The future of our existence,
Our infinitely precious freedom,
Depends on the quality
of Justice.

By Erma Banks

WSBA Members Advised to Check Malpractice Policies

Editor:

I have read with interest, and of course with concern, the letter to the Editor dealing with "avoiding malpractice lawsuits." [*Bar News,* August/September, 1977].

I am sure the author of the letter did not provide the caption that appears at the top of it in the *Bar News.*

Quite frankly, I am very much concerned that many, if not most, of the malpractice policies would not be applicable to such suits against attorneys.

The ordinary intent of a malpractice policy is to cover a claim against an attorney by his client, or in rare instances by a bystander, such as a beneficiary of a will who is damaged as a result of professional negligent acts or omissions. It is not the intent, ordinarily, of such coverage to provide what amounts to a comprehensive liability policy by reason of a tort or similar act that is described as an abuse of process or misuse of process.

In other words, I think that the members of the Bar should be cautioned to check carefully their own policies, and if possible obtain interpretive rulings from their carriers, rather than assuming that such claims will indeed be covered by their malpractice carriers, should such claims arise.

I have discussed this matter with some other attorneys, and as a general matter they agree with me, although I do recognize that there are still some policies that simply say that the intent of the coverage is to protect against all claims arising out of the practice of law. If one has such type of coverage and policy wording, then, indeed, the policy may be a source of comfort, solace and protection.

LEON L. WOLFSTONE
Seattle

Plea for Action on Attorney-Saturated Job Market

Editor:

The legal profession in Washington (and I presume most other states) and the law schools march to totally different drummers. This may also be the fault of the ABA, but basically, our association stood idly by several years ago while Gonzaga University increased its graduate output tenfold and Puget Sound started pumping hundreds of people into a satisfied, if not already saturated, job market.

The result is unhealthy and a clear breach of responsibility to the public. Hiring partners see hundreds, maybe thousands, of resumes per year. We have so many coming to our medium-size firm that sometimes we have to use form letter responses. Starvation breeds low quality and corner-cutting at best, and malpractice and dishonesty at worst. It's not hard to understand why 1975-77 became the period of pressure for advertising.

This letter is in no way a comment on the quality of the above-mentioned schools. It is merely meant as a plea for action by our association to start dealing with the supply and demand factor.

DAVID L. BROOM
Spokane

Lawyers Urge Retention of Women's Commission

Editor:

Referendum 40, which will be on the November ballot, asks: "Shall a state Women's Commission be established by statute?" The question is deceptive — the Washington State Women's Council was created by executive order in 1971, and was made a statutory commission by the Legislature in 1977. The issue before the voters is whether the Women's Commission should retain its newly attained statutory status.

Public policy, expressly stated by the Legislature, was "to improve the status and well-being of women by insuring their full and equal participation in government, business, and education . . . recognizing their contribution to the home, family and community." Laws of 1977, 1st Ex. Sess., Ch. 288, §1, p. 988.

To this end, some of the Women's Commission's activities include recommending changes in legislation which will improve the status of women; representing the interests of women during the development of administrative rules and regulations; proposing policies and programs to state departments and agencies which will provide equal opportunity for women; encouraging the appointment of women to statutory boards and commissions (the number of women in such positions has increased from 13 to 23 percent since the Women's Commission began its "Roster of Qualified Women" in 1973); and educating government, industry and private individuals regarding existing laws against sex discrimination.

Specific areas of focus have included legislation pertaining to education, employment, credit, community property, rape and the status of homemakers. The Commission's most recent publication is *Women and the Law in Washington State,* a comprehensive review and assessment of state laws affecting women.

We urge the members of the Washington State Bar Association to actively support the retention of the Women's Commission as a statutory body by voting "YES" on Referendum 40.

BETTY FLETCHER
ELIZABETH HUNEKE
LEE KRAFT
MARY ELLEN KRUG
NANCY MILLER
JANE NOLAN

Editor's Page

Let Lawyers Vote — If They Will

The announcement that Kirk Richard Wines of Seattle had won the drawing for the free trip to Hawaii effectively served as a declaration of adjournment, and the 900-plus members of this bar association who participated in the Annual Business Meeting were filing out of the ballroom at the Hotel Vancouver. At the podium, in his last few moments in the bar presidency and with his amplified voice nearly lost in the departing chatter, President Richard H. ("No problem") Riddell was telling the group that there was a problem.

During this meeting on September 16, the assembly had directed in a two-thirds voice vote that the entire membership be polled by mail on the question of whether two non-voting lay members should be appointed to the Board of Governors. Nearly three months earlier on June 24, the Board had voted 6-4 to reject the proposal. Therein lay the problem: the association By-Laws might be interpreted to require that any referendum on the issue be called for within 60 days of "publication" of the Board's vote. *See story,* p. 26.

Subsequently, it was determined that this "60-day rule" does not apply to referendums ordered by two-thirds vote at the Annual Business Meeting; however, it is applicable to block referendums on Board action sought by petition of 250 members, the only means for the membership to order a vote 364 days of the year.

Ironically, the majority of the assembly rejected a resolution seeking to eliminate the 60-day provision and other features of the By-Laws which restrict the ability of the membership to enact any binding measure.

A notable restriction is that once a mail ballot of the membership is ordered, it is binding only if fifty percent of the active membership (one-half of 7,964 at last count) actually vote. Those who fail to vote exercise a powerful veto by inaction. Those who do vote are in the same position as passengers on a train who see that the engineer is on a collision course but are barred from applying the brakes or changing the course because more than half of the other passengers are asleep.

Under the present By-Laws, even a two-thirds vote by the Annual Business Meeting assembly — with the exception of such a vote ordering a referendum — is advisory only. Those opposed to making that assembly's action binding — even after advance notice and hearings on whatever issue might be presented — argue that poor policy might be set by a convention crowd lacking detailed information assimilated by the Board on a given issue. For example, in the debate at the Hotel Vancouver, it was argued that the assembly should not vote on malpractice insurance issues because the Board has absorbed "35 pounds" of material on this subject during the past several years. Yet Board Member Robert R. Redman, chairman of the Professional Liability Insurance Committee, was able to stand up before the group, outline the need for a mandatory response to a forthcoming claims data questionnaire, and receive a virtually unanimous (only one "No" vote heard) endorsement of the project.

Of course, this same crowd heard debate on the referendum resolution, but turned it down. Clearly, the convention assembly is no threat to the Board's ability to exercise leadership in policymaking.

The lawyers who are this bar association should be permitted to vote if they will. The present By-Laws effectively prevent such voting.

The defeated resolution would eliminate the 60-day rule and permit a majority of those voting in a referendum to bind the association. It would permit the Annual Business Meeting assembly to bind the association upon a two thirds vote after advance notice to the membership and hearings on the issue presented. We should amend our By-Laws as suggested by this resolution — *if* we get a chance to vote on it.

JVW

Why Answer the Questionnaire?

Each of you will soon be receiving a "questionnaire" from the Bar Association requiring information relating to lawyers professional malpractice insurance. Resist the temptation — do *not* set it aside or treat it as "junk mail"! Your immediate response to it is of great importance to you and the bar, and I would like to explain why.

This questionnaire is the result of an intensive, concentrated drive by the Bar Association to provide essential protection to (a) the lawyer, and (b) the public, in an area where such protection is becoming not only exceedingly expensive but potentially otherwise unavailable.

It is clear that the cost of such insurance is becoming prohibitive through the private carriers. This is a dilemma which is affecting all bar associations, and the Washington State Bar is pursuing a leadership position in addressing the situation and formulating potential solutions. One of the principal problems, so far as we can determine, is that there is not only very little data available to actuaries as to loss experience throughout the legal profession, but more importantly, that there is no reliable loss experience information which specifically applies to Washington State lawyers. We believe, and I think with good reason, that the errors and omissions loss experience in the State of Washington may well be substantially less than the national experience. The Washington State Bar not only pursues high standards of admission, but also maintains effective and efficient disciplinary procedures and administration which are second to none, and actually create a standard for others to emulate — it is probable that this is reflected in the loss experience.

So — why answer the questionnaire?

First, because we are convinced that reliable information as to loss per premium dollar is not presently known or available.

Second, because we believe that the national statistics that are available do not reflect the true statistics in the State of Washington, and that our loss picture will be much less than the national average.

Third, because we are informed that without such information, the actuaries cannot formulate or predict a reliable premium dollar, nor predict the success of an insurance program — either private or through the Bar Association.

Fourth, that without a reliable program at an affordable cost by a private carrier, the Bar Association must, in a sense of responsibility to the Bar and public, provide such a program which it simply cannot do without the information sought by the questionnaire.

It is obvious from what has already been said that the questionnaire results are useless if they are not complete or if they do not represent the *entire* Bar. For that reason, response from *all* of the lawyers is essential. The questions have been whittled down to the bare necessities, and rarely will take more than a few minutes to answer.

Finally, rest assured that confidentiality will be fully maintained. The form of the questionnaire is carefully designed so that there will be no tie between the individual attorney and the information provided by that attorney. Full and complete disclosure and response must and can be made

without any concern upon your part that it can or will be identified with you.

So, if you haven't already filled out and sent in that questionnaire, please do so right now so that we can continue to develop this most essential program.

Position Open: Washington State Bar Association Legislative Representative

Applications are now being accepted for the position of Legislative Representative for the Washington State Bar Association. This position has the several responsibilities of (a) serving as liaison between the State Bar Legislative Committee and the State Legislature, (b) representing the State Bar in its continuing efforts to improve the judicial system through effective state legislation and (c) serving the public on matters of public interest when the Bar Association has such an opportunity.

Consideration will be given to persons interested in full time or less than full time. The final concept is unresolved at this time. Write and send detailed resume to Box #8 at the Bar Office, 505 Madison, Seattle, Washington 98104.

Fees — Part I

KURT M. BULMER
General Counsel, WSBA

Many clients assume that the specific amount of an attorney's fee is subject to some form of review by the Bar Association. This is a view shared by some attorneys as is demonstrated by the fact that we still get a few inquiries from attorneys requesting "minimum fee schedules" despite their last use by this state in 1972. The range of questions dealing with attorney's fees goes far beyond the relatively simple "You charged too much — No I didn't" type dispute. Fee questions deal with issues of overreaching, unduly prejudicing a client's interest, withdrawal from cases, fee splitting, attorney's liens, usury, credit cards and having a financial risk in the outcome of litigation.

There are only three provisions of the Code of Professional Responsibility that deal directly with fees: DR 2-106 — Fees for Legal Services; DR 2-107 — Division of Fees Among Lawyers; and DR 3-102 — Dividing Legal Fees With a Non-Lawyer. Most of the provisions contained in those rules reflect either obvious requirements or commonly understood practices. Attorneys are prohibited from charging an "illegal" or "clearly excessive fee." Guidelines are provided for determining what is "clearly excessive." Also prohibited are contingent fees in criminal cases and fee spliting with either a lawyer who is not a member of the law firm or a non-lawyer. Provisions are made for sharing fees with other lawyers if the client consents and the amounts are reasonable.

Most complaints against attorneys concerning fees do not fall within the jurisdiction of the Bar Association's authority as delegated it by the Supreme Court. However, the friction created by such disputes erodes the attorney's reputation and shores up the public's opinion that attorneys are interested solely in setting fees as high as possible. In response to this volume of complaints a voluntary fee arbitration system has been established. This system provides a relatively easy means of resolving fee arguments. Attorneys have found it worthwhile, since the proceedings may be conducted under binding arbitration rules with resulting opinions being grounds for obtaining a judgment if necessary.

Fee disputes generally stem from bad communications between the client and the attorney. Everyone knows that they should discuss fees with clients as soon as possible, yet many attorneys will not or can not bring themselves to do it. Other attorneys insist upon quoting flat rate fees to clients but then don't keep the client informed when the circumstances change and the fee will have to be higher. Still other attorneys quote a fee but then don't make notes of that quote and as a result a quote price is frequently forgotten as one amongst many, but, of course, the client remembers exactly what was quoted.

Most of the complaints filed with the Bar Association dealing with client's fees are avoidable if the attorney would take simple steps to assure, not only an initial understanding of the fee agreement with the client, but also to provide a constant flow of fee information. Standard office procedures should include; (1) fee discussions with clients followed by written confirmation of the fee understanding and an indication that the client understands and accepts this agreement; (2) in a flat rate situation the client must be fully informed as to what is covered and what changes can cause an increase in the fees; (3) clearly establish that an initial payment at the time the attorney takes the case is not the only payment and that other fees may be charged; (4) bill the client monthly so that the client always knows exactly how much is being charged; (5) establish what expected cost will be and indicate that these will be separate from attorney's fees; (6) and finally don't assume your clients are questioning your integrity merely because they ask about the fees. Rather assume that they want to do what is fair but need assurances that they have received value for their money.

The more complex ethical issue involving attorney's fees deal with contingent fees, attorney's liens, interest charges and withdrawal from cases. These will be discussed in the next two issues. □

The Role of the Press (And of Lawyers) In a Self-Governing Society

"The Bill of Rights put the benefit of the doubt against the government. There's nothing sinister in that. That's our system. But do we as lawyers make that clear to people?"

By **CARL STERN**

One of the highlights of the Annual Meeting in Vancouver, B.C., was a luncheon address on September 15 by Carl Stern. Stern is a lawyer and an NBC News correspondent assigned to cover the Supreme Court, the Justice Department and major legal issues. In 1974, he received the George Foster Peabody Award for "exceptional journalistic enterprise," and in both 1969 and 1974 he was a recipient of the American Bar Association's Gavel Award. The following is the full text of his speech. – Ed.

Thank you for the invitation to be with you today. I'm always struck by the fact that each year there seems to be a different story circulating about lawyers. I don't know whether the one circulating in the East these days has reached the West yet. For all I know maybe it *started* in the West. But the story is told of the two men who — with time to kill — came upon a hot air balloon and decided to go up for a joy ride.

Well, after several hours they'd had enough. They started to descend. One problem though: they had no idea where they were.

Then they spotted a man way below walking through a field. And they called down "Sir, where are we?" The man shouted back up "You're in a balloon." "I'll bet you that guy's a lawyer," said one balloonist to the other. "All right, you're on," said his companion. They shouted down, "Sir, what is your occupation?" "Lawyer."

"Now how did you know that," said the one balloonist to the other. "Well," said his companion, "it was obvious from his answer to the first question . . . . . accurate but worthless."

So much for professional laudation. I would like to talk bluntly today. I always try to — though there are risks. I recall a speech I gave at the other end of this continent some years ago during the height of the controversy over the Warren Court decisions. I was invited by the medical society in Louisiana to give a speech on the Court. I delivered a heartfelt *defense* of the Court in which I contended that a reasonable person would agree with even the most controversial decisions of the Court if only he or she knew the facts of each case.

Applause was restrained. This was a very conservative organization. About a month later galleys of my talk came in the mail for correction (texts of each speech were printed in this organization's newsletter so that those who missed the meeting might know what was said). And lo and behold, the editor of this rather conservative group's newsletter had inserted a paranthetical note under the title of my defense of the High Court which read: "The views of the author are held in disrepute by responsible conservative authorities. However, we believe that even the views of our enemies should be heard. Signed, the editor."

What I would like to talk about for a few minutes — what I think I could most valuably talk about — is tradition. By that I mean a sense of history, of political values, of concerns and standards that are very much a part of American life but which — like many other things — can be lost if we don't think about them and use them.

I remember so well — perhaps you do too — how in the Senate Watergate hearings Senator Talmadge of Georgia was questioning former White House aide John Ehrlichman about the break-in into the office of Daniel Ellsberg's psychiatrist. Talmadge asked: "Do you remember when we were in law school we studied a famous principle of law that came from England and is well known in this country that no matter how humble a man's cottage is, though its roof may shake, though the wind may blow through it, though the storm may enter, still the King of England cannot enter without the man's consent?" Ehrlichman replied: "Well, I'm afraid that has been considerably eroded over the years, has it not?" Talmadge answered: "Down in my part of the country we still think it is pretty good law." And the audience in the Senate hearing room applauded.

That is the point: Talmadge remembered and demanded a certain fidelity to our system, while Ehrlichman did not.

Are we mindful of traditions? Do we measure what our public officials do and say against the yardstick of our government's design?

In 1969, Warren Burger gave his first speech as Chief Justice at the American Bar Association meeting in Dallas. I mean no disrespect to the man in telling you this story — but he said he would vote on cases on the basis of what would produce the most socially useful result. That sounded good. What he said was well received. But should it have been? Who stopped to think about it? You don't have to hold a PhD in political science to recall that under our Constitutional design the *Congress* exists to represent and protect most people — to produce the most socially useful result. The Supreme Court, on the other hand, functions to protect the individual, even if it does not produce the most socially useful result — even, if need be, in the *face* of the majority. Yet I'll bet few people in that room even thought about it.

How much thinking about such matters goes on even at the Supreme Court? Let me give you another example — a little less weighty but an illustration of the mindlessness which seems to afflict us all.

Just a month ago Justice Thurgood Marshall agreed to hear — in chambers — an application by lawyers for New York City to stay provisions of the Clean Air Act which were scheduled to go into effect. I called the Justice and asked to attend and was summarily told "No" — by tradition argument in chambers is not open to the press. "But how could that be?" I asked. And I quoted to Marshall words from his own decisions on how closed courtrooms breed ignorance and suspicion of the law. Well, said Marshall, he didn't know where the tradition had come from or what the reasons for it were, but in the 34 years he had been around the Court as lawyer and justice such argument had never been open and so the answer was "no."

In all fairness I should report to you that Marshall called back the next day and said he'd been thinking about it and had a change of mind. He said he would bring up the matter with his colleagues when the Court resumes conferences later this month. But, of course, by then, the hearing will have been held. It now has been held, and all we (and the public) knew was that the stay was denied— no information on the nature and quality of the argument (by public lawyers in a public courthouse!)

The United States was founded by people who had a healthy skepticism about government and regarded information about what the government was doing as a curb on abuses. Ours was to be a limited government, a government of enumerated powers. All other powers were reserved to the people and to the respective states. You will recall that many of the original states agreed to ratify the Constitution only because of assurances of a Bill of Rights to follow. Those amendments would further limit the authority of the new government to interfere in the daily affairs of people. Justice Douglas used to state the premise simply: the purpose of the Bill of Rights was to take the government off the backs of people.

The Bill of Rights put the benefit of the doubt against the government. There's nothing sinister

in that. That's our system. But do we as lawyers make that clear to people?

It's not a question of handcuffing police, or coddling criminals, or inefficiency. (Even with all our safeguards an estimated 2% of persons convicted of crimes are actually innocent — which translates to about 10,000 people each year. So our safeguards are not all that generous.) Hugo Black was asked once by an interviewer if the High Court's criminal law decisions such as *Miranda* and *Escobedo* hadn't made it difficult to convict criminal suspects? Black replied: "It's supposed to be difficult." A marvelous answer. It's supposed to be tough. That is what made America different. But how often do we think about it? And how often do we convey that thought to the public?

One study a few years back involved having the Bill of Rights drawn up in the form of a petition and asking people to sign it outside supermarkets. The study showed that a majority of people thought it was subversive. A majority could not be found who would subscribe to the notion that criminal suspects should have the right to remain silent or that newspapers could print things that the government believed they shouldn't. Some time before his death, Earl Warren gave a talk in St. Louis. He said the Bill of Rights wouldn't pass today if it was up for a vote. I am not so sure he was right. I like to feel that the notion of checking government power and preventing arbitrary abuses is a fundamental yearning of all humankind.

That desire is not the hunting preserve alone of adrenalin-fueled lawyers (to use a phrase you may recall) or journalists in search of the Pulitzer prize and lucrative movie contracts. It is almost as old as recorded history. It is interesting to note that in Biblical times when a city was established it was not the leader, the boss-man, the "Chief Magistrate" as he was called, who was chosen first. It was the judges who were chosen first, the ancient writings say, so that those who governed would stray neither to the right nor to the left. In short, a notion of checking arbitrary power, a principle of accountability, is present as far back as we can trace political systems.

Life is all the poorer if you have no sense of that sort of thing. I remember during the Watergate period when Judge John Sirica called the

grand jury into his courtroom to have the members affirm one by one that it was their command to the President of the United States to comply with their subpoena for the White House tape recordings. Here they were — ordinary people — commanding a President. And one's head had to be filled with watching that. Runnymede. King John. The Magna Carta. Here it was 700 years later working right in front of us.

Not everyone sees these things the same way of course. I remember sharing that last thought one day with Erwin Griswold, the former Harvard Law dean and Solicitor General of the United States. He only grunted and said, "It's not that simple." He is also, of course, the man who argued the Pentagon Papers case — the preeminent First Amendment case of our time — as a case to be resolved by looking to the law of copyrights! So much for law school deans. (I remember arguing once very passionately and eloquently before Dean Goldstein of the Yale Law School. When I finished I looked at the Dean for his response, which was: "Mr. Stern, you have finally *succeeded* . . . . . in reaching my zone of indifference.")

O.K. So much for deans. But my point is it is important to have some "feel" for our system and to have some sense of despair when people are insensitive to it.

Recently a judge in New York barred the press and public from a trial — a civil trial in which entertainer Connie Francis was suing Howard Johnson's — when her lawyer argued: "There is no right to know — this is a private matter between private parties."

How is it possible that a proceeding in a public courthouse where a taxpayer supported judge is placed to do the public's justice should be closed? How could anyone, especially persons *trained* in law and government, arrive at such a conclusion? Yet it is only in recent years that the courts — especially the Supreme Court — have begun to articulate the notion that what the law does is not a private matter. . . that openness and timely reporting are a constitutionally favored interest. But on that point, the Court has not however received much support or endorsement from the legal profession. . . whose members are trained to believe that important matters are handled privately.

The Supreme Court has always been a convenient whipping boy of sorts. In 1800, John Jay who had quit the Court to become Governor of New York, declined to rejoin the Court saying it lacked dignity and, besides, he didn't think it would ever amount to much. The Jeffersonian Democarts ran on a platform to impeach Chief Justice Marshall. One *recent* president said he wanted a court "which would interpret the Constitution as written, rather than amending it by arbitrary judicial say-so." Presumably that strict constructionist was Richard Nixon, but in fact it wasn't. It was Franklin Roosevelt criticising a conservative Supreme Court in 1937. So, attitudes vary about the Supreme Court. The Justices themselves change. Theodore Roosevelt was so angered, you may recall, by the turnabout of Oliver Wendell Holmes whom he'd appointed as a trustbuster that he accused Holmes of "having all the backbone of a banana." The best example from more recent times might be Lewis Powell who wrote an article in a Richmond newspaper defending John Mitchell's use of warrantless wiretapping in so-called domestic security cases and then, less than one year later after he had been

appointed to the Supreme Court, authored the unanimous opinion of the Court that Mitchell had NO such power!

It is hard to be mindful of tradition when the physical trappings of our past are disappearing so quickly and when changes are so substantial. The *bigness* of government has altered things, and it has all happened relatively quickly. It wasn't until the mid 1930's that Supreme Court justices were given office space. Do you realize that Senators and Congressmembers didn't have office space or secretaries until 1901. (Of course, that would have kept people like Wayne Hays out of trouble.) Noting Jimmy Carter's efforts to cut down the White House staff makes one think of the scandal Herbert Hoover created when he became president. He asked for five secretaries! No president had ever had five secretaries before. The Presidency had not yet become Imperial. The story is told, although I don't vouch for its authenticity, that the Ambassador of Germany was invited to stay over at the White House one night during the Abraham Lincoln presidency and, although he had been warned not to roam around the White House, did so anyway and suddenly found himself opening the door to Lincoln's bedroom where the President was sitting shining his shoes. The story goes that the Ambassador's jaw dropped, and his monocle dropped and he blurted out in his imperial Prussian voice: "Mr. President, surely you don't shine your own boots?" To which Lincoln supposedly responded: "Yes . . . whose do you shine?"

I agree, that may be the romantic past. But it is rewarding to think about it, and it is the sort of tradition which provides a yardstick. It gives us some sense that the government does belong to us — and not some elite chosen to govern as it wishes.

The uniqueness of the American experiment was that we meant to be our own governors. That was James Madison's phrase. It is hard to realize it now but that was a radical thought in its day. A heresy. The idea that sovereignty resided in the people rather than in any institution of government was regarded as a novelty in Europe.

WE said that man had natural rights which existed independent of government. The purpose of government was to secure those rights. And how would we be our own governors? Armed

with that power which knowledge gives (to use another Madison phrase) we would have a daily input into the process of government.

That is the tradition against which the practice has to be measured. Yet how often do we really press on the matter. I remember not so many years ago having a running battle with the Justice Department (a daily give and take) which used to go like this:

I would walk in and ask, "How many wiretaps is the Justice Department operating today?" The Attorney General's spokesman would reply "Oh, I don't see how it would help us for me to answer that." Then, I would say, "I didn't come in here to help you or hurt you; wiretapping is just one of the things I try to keep tabs of."

To which he would reply: "Look, if people don't like what we're doing they will let us know soon enough at the ballot box." To which I would retort: "If you won't tell people what it is you are doing, how on earth can that vote next November be an endorsement or ratification or vote of approval of anything?"

That's the point, of course. The thing that makes a democracy work is information. There can be no *self*-government without it. I remember some years ago giving Attorney General Saxbe what I thought was an inspiring and uplifting talk about the Freedom of Information Act which requires the Justice Department to disclose a certain measure of what it is doing. When I finished, Saxbe looked at me half-stunned and half-angry. He said, "I can't run the Justice Department on the front pages of newspapers. I'm not going to have you press guys second-guessing everything my lawyers are doing." Well, it may seem unfair to some people but that's exactly what we *do* do. Any look at what the Justice Department is doing is inevitably a matter of second guessing. Performance of public officials is the subject of press interest. Yet here the chief law officer of the country seemed to have difficulty perceiving what it was that the news media does in a self-governing society.

Justice Brandeis said it long before the Freedom of Information Act that "sunshine is the best disinfectant." I doubt if many people, except possibly for those now in government, would like to go back to old Administrative Procedures Act which said that only persons "properly and directly concerned" could obtain access to government records and even then only if the agency had no good reason to withhold them. There was no judicial review of an agency denial. Yet even today the Congress is considering the new federal criminal code recodification — approved by such liberals as Ted Kennedy and Birch Bayh — which includes provisions making it a crime to publish a government report without permission, or to "improperly" criticize a government official or government employee (or friend, business associate or relative of a government employee) if the criticism results in economic loss or injury.

No reporter wants to unduly injure someone else but the facial invalidity and over-reaching of such legislation would be apparent to any law school freshman. Yet there has been no hula-balloo — even in this post-Watergate era. Where is everybody? Who's watching the store? Why isn't anybody yelling about it? Despite the First Amendment command that, "Congress shall make no law, etc. . . ," no less than 98 bills attempting to regulate what the press can do were introduced in the First Session of the 95th Congress. How is that possible?

One problem may be that we just have too many lawyers and people who like to write laws. In the last Congress, 20,000 laws were introduced. Each year in the United States the various levels of government place another 150,000 laws on the books. 150,000 new laws every year! Are we really any happier having — let's say — 1½ million more laws than we had 10 years ago? Are we safer or more secure?

No wonder we have so many lawyers in this country — 20 times as many per capita as equally complex societies like Japan. New York City has 5,000 more lawyers than all of West Germany! In Washington I am told the odds are that one out of every nine white, adult males one passes on the street is a lawyer.

Maybe that's one reason it takes government so long to do things. A new government report shows the average rail abandonment case takes almost four years to pass through the government . . . the average rate-making case three years . . . the average enforcement case 1½ to 2 years. It took almost two years just to assemble the report on delays! The Holland Furnace case took 29 years to reach conclusion. The Geritol case a mere 15 years. I noticed the other day that the IBM case which began eight years ago is not expected to reach conclusion for at least another seven. (By then, of course, all the underlying facts will have changed). The Federal Trade Commission confidently predicted recently that its monopoly case against the big oil companies should get to trial by 1980. The complaint was filed in 1973. If we are not drowning in legal ink, we are certainly not doing any sprints across the legal seas either.

All of us, lawyers and laymen, TV reporters, have a job to do in the process Drew Pearson used to call "making democracy work." What we need is a more aggressive press corps, not less, if we are to hold down our end of the Constitutional design. I remember so well being a reporter at the White House during the Vietnam War. If the President came out and said the bombing of North Vietnam is surgically precise we reported, "The bombing of North Vietnam is surgically precise." If a General came out and said the light is at the end of the tunnel, we reported, "The light is at the end of the tunnel." In short, we weren't good enough, tough enough, demanding enough to do the sort of job we were supposed to be doing. One can't help wondering today how much could have been saved — in lives and national fortune — if we had been a little more demanding. The fault generally has been not that the press corps is too pushy, as Spiro Agnew used to suggest, but that it is not pushy enough.

It is true that some people will always equate unquestioned acceptance of what the government does as patriotism — and criticism or questioning of the government as an act of disloyalty. But the government is NOT the nation, nor the President the presidency. I can't think of many things more consistent with the American tradition of openness and accountability than to *push* for information. To suggest otherwise, it appears to me, seems vaguely un-American. It is somewhat like saying that a theater reviewer who doesn't praise most of the shows he sees enthusiastically is trying to kill off the theater. Of course, that's not true. The reviewer maintains the standards. The reviewer often leads to higher standards. And he or she is there to remind people what the standards are.

That's our job. And your job too. □

Mandatory CLE: Policies . . . and a Reminder

By **JOHN J. MICHALIK**
Director of Continuing Legal Education

A couple of months ago, I directed your attention to a policy statement adopted by the State Board of Continuing Legal Education with reference to the question of approval of so-called "in-house" programs under the mandatory CLE Rule. At the direction of the Board, I would like to use a portion of this month's column to discuss two other policy statements issued by the Board in interpretation and clarification of the CLE Rule.

The Applicability of the Rule to Members of the Judiciary. By its terms, APR 11 applies to all "active" members of the Bar Association. In clarification of that provision, the Board has stated that full-time members of the judiciary, who are classified as "honorary" members of the Bar Association, and as such are prohibited from practicing law, are exempt, during tenure and as "honorary" members, from the CLE requirement. Part-time judges who are also engaged in the practice of law as "active" members of the Association, are fully subject to the requirements of APR 11. Of course, any member of the judiciary who leaves the bench and returns to active practice becomes, at that time, fully subject to the Rule. A detailed compilation of Board policy in this area is available, upon request, from the CLE Department at the State Bar Office.

While on the subject of the judiciary, it is interesting to note that mandatory continuing education for the judges in this State appears to be under consideration and that the Superior Court Judges' Association has adopted a resolution encouraging each Superior Court Judge to complete a minimum of 15 credit hours of legal education during each calendar year after 1977.

Exemptions from the Requirements of APR 11. APR 11 itself authorizes the Board of Continuing Legal Education to grant exemptions from the 15-hour per year requirement in cases of "undue hardship, age or infirmity." The Rule also authorizes the Board to consider the factor of "restricted practice" in reviewing petitions for relief under, or from, the provisions of the Rule. "Undue hardship" and "infirmity" present, of course, tests which must be applied on a case by case basis on the facts presented. Definitive policy with regard to requests for exemption based upon those grounds is, therefore, difficult to state. With regard to requests for exemption based upon "age" and/or "restricted practice" however, the Board has adopted a formal Statement of Policy which, in essence, provides that before the Board will consider requests for exemption on those grounds the Board must be satisfied, by appropriate and properly executed affidavit, that the individual making such request for exemption is not, or will not be, engaged in the actual and unsupervised practice of law. Such an affidavit may, for example, be in the form of a sworn statement of retirement from practice. Individuals granted exemptions on the basis of such affidavits continue to retain "active" status in the Bar Association. It is perhaps unnecessary to say that the Board's decision to grant exemptions of this type only on the basis of the type of affidavit referred to is in line with its thinking that the interests of the profession, and the public, are best served if *all* attorneys engaged in the practice of law, to whatever extent, meet the requirements of APR 11. Again, a detailed Policy Statement in this area is available from the Bar Office.

Policy statements aside, a quick reminder: MEMBERS OF THE WASHINGTON STATE BAR ASSOCIATION SUBJECT TO THE PROVISIONS OF APR 11 *MUST* COMPLETE 15 HOURS OF APPROVED CONTINUING LEGAL EDUCATION ACTIVITY BY *DECEMBER 31, 1977* AND MUST FILE AN AFFIDAVIT EVIDENCING SUCH COMPLIANCE BY *JANUARY 31, 1978*. SEE THE PROVISIONS OF APR 11 AND THE REGULATIONS OF THE STATE BOARD OF CONTINUING LEGAL EDUCATION. □

Board Approves Major Dues Increase, 6-4

By **JAY V. WHITE**

VANCOUVER, B.C., September 14-15 — By a 6-4 vote, the Board of Governors and President Richard H. Riddell have approved a major dues increase which will be reflected in the 1978 dues statements to be mailed to the membership in late December.

Lawyers admitted to practice for less than two years will be assessed $100; those who have been admitted for between two and five years will owe $150; and all others must pay $200.

The present dues structure — which has resulted in a $45,000 deficit for fiscal 1977 — imposes annual dues of $75 on those admitted less than two years, and $100 on all other members of the bar.

At the Annual Business Meeting on September 16, President Riddell — prior to the ceremonial transfer of the gavel to incoming President Edward J. Novack — announced the dues increase and outlined the Board's rationale for it.

The thrust of this rationale is to avoid another dues increase during the next five years, barring extraordinary revenue needs. Current projections of inflation and revenue requirements suggest that the new dues structure would result in a surplus during the first two years (as much as $300,000 in fiscal 1978), followed by a "break even" third year, with a deficit expected in the last two years which would absorb the surplus.

Bar association figures indicate that continuation of the present dues structure would result in a $352,000 deficit in the coming fiscal year. Major budgeted increases over actual 1977 expenditures (approximate figures) include an additional $69,000 for the Continuing Legal Education program; $50,000 for the Client Security Fund; $13,000 for the *Bar News;* $11,000 for payroll taxes and benefits; $10,000 for the "contingency fund"; $9,000 for bar association headquarters rent; $8,000 for bar association sections; $7,000 for bar exam administration; and $6,000 in miscellaneous printing costs.

New spending categories and amounts include $40,000 for the malpractice insurance program; $25,000 for "functional management options" (providing the Board a fund for new projects which may arise, including subsidies for local bar association projects); $10,000 for computerization of routine bar services; and $10,000 for trust account audits.

Based upon total projected budget figures, deficit results under the present dues structure even though programs such as CLE, the *Bar News* and the Bar Exam are nearly self-supporting.

The Board considered alternate proposals for a more modest dues increase than that adopted, but the majority concluded that the resulting "break even" situation would necessitate one or two additional dues increases in the next five years. Moreover, some Board members expressed the concern that these more modest proposals would guarantee continued deficits and weaken the bar association in the long run.

The budget and accompanying dues increase was the dominant item on the Board's agenda. Other Board action is noted below.

This was the final Board meeting for President Riddell; Board Members David D. Hoff, Charles R. Olson and Robert R. Redman; and ex officio Board Member Robert W. Burns, whose terms expired at the Annual Business Meeting.

Meeting with the Board were incoming President Novack and Board Members-elect Charles W. Cone, Lowell K. Halverson and David A. Welts; Kenneth B. Rice who, as new president of the state Young Lawyers Section, will join the Board ex officio; and Terrence A. Carroll,

representing the Seattle-King County Young Lawyers.

Bar Dues Debate

Board Member Hoff, as chairman of the Budget Committee, described the budget for the upcoming fiscal year, recommended its adoption and moved that bar dues be increased to $100 for lawyers admitted less than two years and $150 for all other active members. The motion was seconded by Board Member Robert H. Peterson.

During the ensuing discussion, Board Member Willard Walker expressed the view that the proposed dues increase was "not high enough" and Board Member Michael J. Hemovich agreed that a "substantial increase" was needed. Hoff noted that if only the $100/$150 formula were adopted, another dues increase would be necessary in two or three years.

There was some discussion of the possibility of making CLE programs into a profit-making venture, but the consensus was that such a move merely would constitute an indirect dues increase. Further, it was noted that CLE fees will have to be increased in any event in order to keep the program self-supporting.

Board Member Redman stated that he believed that the membership does not appreciate the need for a dues increase, but that he was "comfortable" with the $100/$150 formula.

Ex officio Board Member Burns stated that he agreed with Walker and Hemovich that there was a need for "increased dues full blast" and proposed a $100/$200 formula.

Board Member Peterson questioned the need for any dues increase that would create a "$300,000 surplus." Board Member Betty B. Fletcher stated that some of the budget items were set at unrealistically low figures, citing expected increases in discipline administration.

Peterson responded that an increase to $200 for those admitted over two years would be "wild" and that the proposed budget was realistic. As to an increase beyond the $100/$150 formula, Peterson said: "The money isn't needed."

Hoff agreed that the membership would object to a surplus of $200,000 to $300,000. President Riddell noted that the $100/$150 formula would be adequate for "two years at most." Board Member-elect Cone stressed the need for more

money for legislative programs. Walker said that he did not think "lawyers would object to laying something away for a rainy day" which would keep bar dues down in the long run.

Board Member-elect Welts argued in favor of the $100/$200 formula, noting that the membership is more aware than it has been in the past as to revenue needs because of the mandatory CLE and spot audit rules. He concluded: "Let's make the jump right now. Let's go first-class right now."

Board Member-elect Halvorson expressed concern over the impact of a dues increase upon unemployed lawyers: "It's difficult to join a mandatory union like ours and not have a job."

Board Member Olson stated that the $100/$200 is "too big of a step to take at this time." He stressed the adverse effect of an increase to $200 upon retired lawyers who desire to retain an active membership.

Discussion ultimately was suspended to permit revised computations as to the impact of the dues increase proposals and to allow Burns to confer with the Young Lawyers Board. Later, when the discussion was resumed, Burns reported that the state Young Lawyers would recommend a dues structure of $100 for those admitted less than two years; $150 for those admitted for between two and five years; and $250 for all other active members.

Board Member Cressman stated that he was "100 per cent for the highest figure," but that changes should be made in the budget "to educate the membership as to the need." Board Member Bradley T. Jones also emphasized the need to revise the budget.

Peterson moved for adoption of a $100/$160 dues formula. There was no second.

Hoff, seconded by Fletcher, revised his earlier motion and moved for a dues structure of $100 for lawyers admitted up to two years; $150 for those admitted for between two and five years; and $200 for all other active members. He noted that under the $100/$150 formula, a further increase would be needed in two years: "I now think we should not be so bareboned in our budget."

President Riddell said the higher figures were appropriate: "It will cost more later if we don't do it now."

Redman cautioned that the Board should "get the membership on board" before acting. President Riddell said that immediate action was required because the By-Laws require a 60-day notice of a dues increase.

Thereafter, the vote was taken and the bar dues increase was approved 6-4. Opposed: Cressman, Olson, Peterson and Redman.

Final adoption of the budget was deferred pending revision by the Budget Committee in light of the adopted dues increase.

Legislative Representative

Terrance C. Schmalz, chairman of the Legislative Committee, met with the Board to report that committee's recommendation that a full-time representative be employed to represent the bar association in the legislature. William L. Stephens, who has served as the committee's representative to the legislature, resigned effective September 30.

Schmalz pointed out that approximately 3,000 bills were introduced during the last legislative session, and that the bar committee followed 58 bills carefully. Further, he said that upcoming hearings necessitate the hiring of an interim representative.

Board Member Fletcher, seconded by Hemovich, moved that the Board authorize and direct the Legislative Committee to commence a search for a full-time legislative representative and report to the Board as to a candidate or candidates for that post, together with recommendations as to salary and the need for a supporting staff. The Board unanimously approved.

The Board also unanimously authorized the legislative committee to retain an interim representative.

Meeting with Supreme Court

The Board met during the morning of September 15 with the Chief Justice and five members of the state Supreme Court. Justices Brachtenbach, Dolliver and Hicks, together with Board Member Olson, were unable to attend.

The Board reported its recommendations concerning the proposed Code of Professional Responsibility amendments relating to lawyer advertising. *See "The Board's Work," Bar News, October, 1977.* It was agreed that the Board would submit alternate proposals concerning its recommended prohibition of radio and television advertising.

The Board also advised the Court concerning the work of the Professional Insurance Committee, including the Board's recommendation that the Court require all active members of the bar to respond to a questionnaire which will soon be submitted to the membership seeking claims data.

Miscellaneous Topics

In other action, the Board:

- Referred to the Trial Practice Section for comment Washington Proposed Rules of Evidence which have been approved by the Judicial Council.
- Requested Board Member Fletcher to make and recommend revisions in proposed Trust Fund Audit Regulations.
- Tabled possible action to revise referendum procedure authorized by By-Laws pending action on a resolution presented at the Annual Business Meeting. *See accompanying report on the Business Meeting,* p. 26. □

Annual Business Meeting

Non-Lawyer Board Members Endorsed, 464-463; Referendum Resolution Fails in Voice Vote

By **JAY V. WHITE**

VANCOUVER, B.C., September 16 — By a one-vote margin, the members of this bar association voting at the Annual Business Meeting have gone on record as favoring the appointment of two non-voting lay members to the Board of Governors. *For text of the resolution and an explanatory report by its sponsors, see Bar News, August/September, 1977, p. 31.*

The vote is not binding on the Board, but if approved in a validated mail ballot by the full membership or by the Board, the Washington bar would stand to become the first bar association in the country voluntarily to add lay members to its governing body.

Announcing the vote ("You're not going to believe this!") was President Richard H. Riddell who called for the appointment of lay members to the Board in April. *See "The President's Corner," Bar News, April, 1977; Cf., "The President's Corner," Bar News, October, 1976.*

In June, the Board voted 6-4 to reject the idea. *See "The Board's Work" and "Editor's Page," Bar News, July, 1977.*

Immediately following the narrow vote, the assembly by a two-thirds voice vote referred the matter to a mail ballot by the full membership. It initially was uncertain, however, whether such a ballot would ever take place because existing By-Laws require the call for such a referendum to take place within 60 days of Board action on the issue. Later, it was determined that the "60 day rule" applies only to referendums ordered by petition, as distinguished from those ordered by two-thirds vote at the Annual Business Meeting.

Notwithstanding the strong vote in favor of a referendum on the non-lawyer Board members question, a clear majority of the body rejected a resolution which in the future would eliminate this "60-day rule" and otherwise would liberalize the existing provision in the By-Laws governing membership referendums. *For editorial comment, see Editor's Page.* The defeated resolution also would have permitted voters at the Annual Business Meeting to enact a binding resolution by a two-thirds vote "after prior notice of the text of the proposed referendum has been given to all active members and hearing(s) held thereon under procedures prescribed by the Board of Governors." The sponsors of the resolution offered the quoted language as an amendment to the original text. *For the original text of the rejected resolution and an explanatory report by its sponsors, see Bar News, August/September, 1977, pp. 31-32.*

In other voting, the assembly rejected a resolution asking the bar association to provide every active member with the full text of all new legislation prior to its becoming effective, but endorsed a resolution favoring the use of grammatical English.

On the motion of Board Member Robert R. Redman, chairman of the Professional Liability Insurance Committee, the body overwhelmingly agreed that the Supreme Court should require every active member to respond to a forthcoming questionnaire seeking claims data. Only one "No" vote was heard against this action.

Redman stated that he hoped that members of the bar would respond to the questionnaire promptly on a voluntary basis, but emphasized that responses must come from virtually 100 per cent of the membership to insure that the data received will be actuarially sound. He summarized the committee's report which outlines the need for and content of the questionnaire, together with the steps which will be taken to guarantee confidentiality and/or anonymity where appropriate. *For the full text of the report, see p. 28.*

State Supreme Court Justice Charles T. Wright delivered his State of the Judiciary address. Justice Robert F. Brachtenbach described various computer projects being implemented by the judiciary.

President Riddell delivered the Annual Report, and outlined the basis for the dues increase approved by the Board. *See The Board's Work, p. 21.*

Spokane County Superior Court Judge George T. Shields received the Award of Merit for his work as Editor-in-Chief of the recently published *Washington Community Property Deskbook*.

The Special Award of Honor was presented to those who this year have completed 50 years as members of the bar. *See p. 44.*

Plaques were presented to President Riddell and Board Members David D. Hoff, Charles R. Olson and Robert R. Redman in recognition of their service during their respective terms which ended at the conclusion of the meeting.

Incoming Board Members Charles W. Cone, Lowell K. Halverson and David A. Welts were introduced.

The President's gavel was presented to incoming President Edward J. Novack. □

Report & Recommendation of the Professional Liability Insurance Committee to the Washington State Bar Association

Because of the increasing cost and difficulty of obtaining professional liability insurance the Board of Governors of the Washington State Bar Association early in 1975 created the Professional Liability Insurance Committee and directed it to study the entire area of professional liability insurance including the reasons for its increasing costs, decreasing availability and further, to study possible alternatives to the traditional market place approach for obtaining professional liability insurance.

The Committee was further charged, in the short term, to develop and discover all available private market sources; encourage possible new markets and negotiate the best possible coverages and premiums for the membership of the Washington State Bar Association.

In summary, the Committee's twofold charge was to do whatever possible, in the short term, to be sure that all available markets were explored and that the carriers then still involved in the private market offered the best coverage for the least cost. The Committee's long range charge was to study the entire professional liability insurance area to see if the dramatic increases in premiums were in fact justified; if new markets could be cultivated and encouraged to move into the area of professional liability insurance and finally to ascertain if there were viable alternatives to the traditional marketplace concept of professional liability insurance.

After two years of study of volumes of data, review of articles, and publications written from all over the country; a great many consultations with numerous people knowledgeable in the insurance field both public officials and those in the private sector, the Professional Liability Insurance Committee has concluded (and has so reported to the Board of Governors):

(1) the entire area of professional liability insurance not only in this state but throughout the country is in a state of turmoil and uncertainty;
(2) that there is at least a distant possibility that in the near future there will be no acceptable private market for the practitioner:
(3) that even if there is a private market, the premiums may very well be so high as to make coverage unavailable for many practitioners;
(4) there is no question but that there is an increasing frequency and severity of loss but the Committee is not satisfied that the premium increases demanded by the private insurance carriers are justified either by the frequence or severity factors:
(5) that there is no body of data in the country that satisfactorily supports these dramatically increased premiums;
(6) that there is no body of data anywhere either in this state or elsewhere that reflects the claims experience of Washington lawyers exclusively;
(7) that the premiums for Washington lawyers are based at least in part on country-wide experience and that that experience probably does not accurately reflect Washington experience.

It is the conclusion of the Professional Liability Insurance Committee that the *most critical deficiency* both in this state and nationwide is a lack of comprehensive data as to past losses and claims. This deficiency leaves any person or entity who attempts to intelligently evaluate the present market or predict future conditions as doing only guess work — sophisticated guess work perhaps, but still guess work.

Your Committee has had the benefit of not only the work and experience of its own members in this field but also the advice of career people knowledgeable in the professional liability insurance field. In addition, the Committee has engaged the services of consulting experienced casualty actuaries. The opinion of your Committee, and their consultants is a unanimous one. If the Washington State Bar Association is to be in a strong position to either negotiate hereafter in the private market or develop any self-insurance plan of its own, it must have available

to it unimpeachable loss data. This loss data must necessarily include all active members of the Washington State Bar Association whether or not they have in the past carried professional liability insurance.

To this end, the Committee, in consultation with the consulting actuaries, has devised a questionnaire to be sent by the Supreme Court to all active members of this Association with direction from the Court that the members respond to it. It is contemplated that sanctions will be imposed by the Supreme Court if the member does not so respond. The questionnaire is neither lengthy nor difficult to complete, but nevertheless will provide the minimum basic data and information for the consulting actuaries to study if they are to properly advise the Committee and this Association.

A word about the three part questionnaire itself.

Section 1 is an individual response which in essence profiles the mode of practice, the length of practice and the type of practice of the individual as well as inquiring into that individual's desires and preferences as to coverages and types of coverages.

Section 2 is a response for an office whether it be a one-man office or an office of more than one. It requests information as to the numbers of practitioners in that office, the areas of practice, and the coverage, if any, maintained by the practitioner or office within the prior five years.

Finally, Section 3 asks for a history of claims (a claim is defined in the preamble to Section 3) incurred within the past five years by a practitioner with inquiry as to the type of claim, the area of practice involved, the disposition of the claim and whether or not the practitioner was insured.

Your Committee wishes to emphasize that the Committee, the Board of Governors and the Bar Association office *will not* have any contact with or access to the responses. Every effort has been made to see that the responses be confidential. In Section 3 for instance, the response will be anonymous. However, in Section 1, the lawyer must *certify* to the Court that he or she has in fact responded completely and accurately to Section 3. The questionnaries will be returned directly to the consulting actuaries Milliman & Robertson. Section 3 will be returned in a separate envelope. Milliman & Robertson will tabulate the returns

and keypunch the information into a computer. The actuaries will then be able to analyze the data and give the Committee, the Board of Governors and ultimately this Association the benefit of their analysis of the actual claims experience of all the lawyers in Washington for the past five years. Milliman & Robertson assures us that from this data, assuming full and accurate responses, they can with reasonable confidence make projections of losses and premium rates, identify trends or patterns of losses and as well be able to perform other analyses of the data that might be desired in the future in dealing with the continuing problems of professional liability insurance.

The Committee wishes to emphasize:

(1) That its recommendation that the questionnaire be implemented be made only after coming to the inescapable conclusion that the availability of the data to be generated by the questionnaire is absolutely essential if the problem of professional liability insurance is to be attacked successfully.
(2) The Committee is convinced that equivalent or substantially equivalent data is not otherwise available either in this state or anywhere else in the country.
(3) The Committee has been told by its consulting actuaries that they cannot perform their consulting function with any degree of assurance absent data of this type from which to work.

The Professional Liability Insurance Committee therefore recommends to the membership of the Washington State Bar Association assembled at this Annual Meeting that it go on record as favoring the implementation of the proposed questionnaire by the Supreme Court, given the conditions of confidentiality and anonymity incorporated therein.

Respectfully submitted,
Professional Liability Insurance Committee

Robert R. Redman, Chairman
Bradley T. Jones
William H. Gates
Frederick J. Orth
Michael Mines
Victor Lawrence
Thomas P. Keefe
Robert Wm. Burns
Dean C. Smith
Dean Richard S.L. Roddis, Ex-Officio ☐

SUPERIOR COURT NEWS

By **JUDGE JAMES A. NOE**

New Officers Elected

Judge **George H. Revelle** (King) was elected President-Judge for the Washington Superior Court Judges' Association at the annual judicial conference in Bellevue on September 13. Judge **Robert Bryan** (Kitsap) was elected Vice President-Judge and Judge **Norman W. Quinn** (King) was named by the judges to serve as Secretary-Treasurer. The terms are for one year. Judge **Willard Roe** (Spokane) and Judge **Jerome M. Johnson** (King) completed their terms for the offices of President and Secretary-Treasurer respectively. The judges expressed great appreciation for the leadership and time given by Judge **Roe** and Judge **Johnson** over the past year.

The judges also elected Judge **Stanley W. Worswick** (Pierce) and Judge **Philip H. Faris** (Whitman) to positions on the Board of Trustees.

New Judges Recognized

Judges who have been elected or appointed since the last judicial conference were honored during the judicial conference at a special breakfast. Chief Justice **Charles Wright** presented a biographical sketch about each jurist before introducing the judge and spouse. Those judges being honored were Justice **Floyd V. Hicks,** Supreme Court, and **Superior Court Judges J. Dean Morgan** (Clark), **Fred Van Sickle** (Douglas-Grant), **H. Joseph Coleman** (King), **T. Patrick Corbett** (King), **Eugene G. Cushing** (King), **Barbara Durham** (King), **Norman W. Quinn** (King), **Willard A. Zellmer** (Lincoln), **Herb E. Wieland** (Pacific-Wahkiakum), **James B. Mitchell** (Walla Walla) and **Phelps Gose** (Walla Walla).

All of the judges were new to the judicial conference except Judge **Cushing,** who returns to the Superior Court bench after having retired from the Clark County Superior Court bench in June 1966.

Honors to Retired Judges

The judicial conference honored those judges who have retired since the last judicial conference, with special recognition during the opening ceremonies at the 1977 conference at Bellevue September 12. Those judges honored after having served the people of the State of Washington so ably over many years were Honorable **Robert T. Hunter,** Supreme Court, and the following Superior Court Judges: **Richard J. Ennis** (Lincoln), **Robert A. Hannan** (Pacific-Wahkiakum), **Edward E. Henry** (King), **J. Guthrie Langsdorf** (Clark), **James W. Mifflin** (King), **Solie Ringold** (King), **Howard J. Thompson** (King) and **John C. Tuttle** (Walla Walla).

Judges Prepare for New Juvenile Act

Judges **Jay Hamilton** (Kitsap) and **David W. Soukup** (King) led the judges through a preliminary discussion concerning House Bill No. 371, the new Juvenile Court Act, passed by the Legislature June 10, 1977. The Act will go into effect July 1, 1978. Many judges expressed concern about the dramatic changes in the law concerning juveniles, but it was made clear that the overall approach to juvenile law will prevail and judges were urged to study the law carefully. The new Act will undoubtedly be a topic of great discussion at the spring conference of the Washington State Superior Court Judges' Association in 1978.

Spring Conference 1968 Announced

The spring conference for the Washington State Superior Court Judges' Association will be held at Ocean Shores from April 26-29. As in previous years, the first day and a half will be devoted to Juvenile Court matters and the conference will be held in conjunction with the annual conference of the Juvenile Court Directors Association.

Personal Items

Judge **Edward E. Henry** (Retired-King), attended the World Peace Through Law Conference in Manila, August 24-29, 1977. He was co-chairman of the Conference Resolution Committee and a long-time participant in the World Peace Through Law Conference. Judge Henry has been an advocate for establishment of a human rights court on every continent.

Judge **Gordon Swyter** (Adams) was a speaker at a training conference for court bailiffs held in Bellevue, September 16-17, 1977. Judge Swyter is the chairman of the Courtroom Security Committee for the Washington State Superior Court Judges' Association. □

Employee Retirement Income Security Act of 1974

An Overview of the Summary Plan Description Requirements

by **PAUL C. JAENICKE**

November 16, 1977 is an important date to any practitioner whose client sponsors one or more of the approximately 16,000 pension and employee welfare plans in this state. That is the Department of Labor's deadline for filing the ''summary plan description'' required under ERISA. In this article, Paul C. Jaenicke describes the content of this disclosure requirement. – Ed.

Increased knowledge and awareness about their pension and/or welfare plan on the part of participants is clearly one of the significant goals of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. 1001, et seq.[1] In turn, the ''summary plan description'' required by the statute is one of the main informational devices designed to accomplish this goal. The summary plan description requirements are found in Part 1, Title I of ERISA. Although this Part became effective on January 1, 1975, with respect to most plans in existence on the enactment date of ERISA, many plans have yet to provide an initial summary plan description to participants and file a copy with the Department of Labor.

Many employee benefit plans were reluctant to prepare and distribute such a document in the absence of final regulations covering the form, content, and other requirements relating to the document. As a consequence, the Department of Labor, pending publication of the ''final'' regulations, provided an alternative method of compliance (the ''ERISA Notice'' as specified in DOL regulation 2520.104b-5) whereby plans could distribute a notice to participants and thereby postpone the date by which a disclosure and filing of the initial summary plan description would have to be accomplished.

On July 19, 1977, the Department of Labor published the long awaited final regulations on summary plan description requirements (42 FR 37178). In general, employee pension and welfare plans will have to distribute a summary plan description to all plan participants (including, for pension plans, beneficiaries receiving benefits) and file a copy with the Department of Labor no later than November 16, 1977, or for pension plans that have requested a determination of Qualification under I.R.C. section 401(b), the later of November 16, 1977, or 90 days after the Internal Revenue Service makes a final disposition of the determination request. Among other things, the regulations provide for the manner in which the summary plan description is to be written, the general format and content of the document, the disclosure and filing dates, and a required procedure in the event a certain number of plan participants are literate only in the same non-English language. Additionally, interim

[1]The Act, with certain limited exclusions, covers all employee welfare plans and employee pension plans (including profit-sharing plans) maintained by any employer, any employee organization, or both, engaged in commerce or in any industry or activity affecting commerce except: a governmental plan; a church plan that has not made an election to be covered by the Act under section 410(d) of the Internal Revenue Code of 1954; a plan maintained solely for the purpose of complying with applicable workmen's compensation, unemployment, or disability insurance laws; a plan maintained outside the United States primarily for the benefit of persons substantially all of whom are nonresident aliens; or an unfunded excess benefit plan. The scope of this article is limited to the effect of the Act's summary plan description requirements on single employer pension plans (including profit-sharing plans) and welfare plans, and therefore does not treat the special requirements that may exist for multi-employer plans.

Paul C. Jaenicke is a member of the firm of Donaldson & Kiel, P.S. The firm limits its practice to employee benefit plan law. He is a graduate of Princeton University and obtained his law degree in 1962 from DePaul University. Prior to entering private practice, he was employed as Vice President and Manager of the Pension & Profit Sharing Department in the Trust Division of Seattle-First National Bank. An earlier article by Mr. Jaenicke entitled ''A Survey Of Current Reporting And Disclosure Requirements'' appeared in the April, 1977, *Bar News*.

regulations were introduced that provide special requirements for the summary plan description in the case of pension plan beneficiaries (a retired participant, a separated participant with vested benefits, and a beneficiary receiving payments).

Contents of a Summary Plan Description

The required contents of a summary plan description are set forth in ERISA section 102(b) and DOL regulation 2520.102-3. Of the following information that is to be included in the document, items 16 through 19 are not applicable to welfare plans.

Requirements For Both Pension And Welfare Plans

1) The formal plan name, as well as the name by which the plan is commonly known to the participants and beneficiaries.
2) The name and address of the employer (plan sponsor) whose employees are covered by the plan.
3) The employer identification number assigned by the Internal Revenue Service to the plan sponsor. Also, the number assigned to the plan by the plan sponsor.
4) The nature of the plan, e.g., for pension plans — whether it is a defined benefit, money purchase, profit-sharing, etc.; and for welfare plans — whether it covers hospital expenses, dental expenses, vision expenses, etc.
5) The type of plan administration, e.g., whether an individual, board, committee, or other organization administers the plan.
6) The name, business address, and business telephone number of the designated plan administrator.
7) The name of the person designated as agent for the service of legal process and the person's address at which process may be served. An additional statement that process may be served on a named trustee or the plan administrator.
8) The name, title, and address of the principal place of business of each trustee.
9) The plan's requirements for eligibility

for participation (e.g., age or years of service) and benefits. Pension plans are to describe or summarize plan benefits, the plan's normal retirement age, and any other requirements to be met in order to receive benefits. Welfare plans are also to describe or summarize requirements for eligibility for participation and benefits. In the case of an extensive welfare benefit schedule, such as in hospitalization or medical expense plans, a general description of the benefits may be coupled with a reference to the detailed schedules if the detailed schedules are available at no cost to any participant or beneficiary who requests the schedule.

10) The circumstances that may result in disqualification, ineligibility, denial, loss, forfeiture, or suspension of any benefits that a participant or beneficiary might reasonably expect under the plan.
11) The sources of contributions to the plan, i.e., employer, employee, or both, and the method by which such contributions are determined or calculated. Defined benefit plans are permitted to state, without further elaboration, that the contributions are actuarially determined.
12) The funding medium used for the accumulation of assets through which benefits are provided, and the identity of any person, trust fund, institution, organization, or other entity that maintains a fund for the plan or through which the plan is funded or benefits are provided.
13) The date of the end of the year on which the plan maintains its fiscal records.
14) The procedures for presenting benefit claims, written notice requirements, and the existence of the right to have a claim reviewed in the event the claim is denied in whole or in part.
15) The statement of ERISA rights authorized by ERISA section 104(c). This statement must appear as a consolidated statement and may state that it is required by federal law and regulation. (N.B. DOL regulation 2520.102-3(t) (2) contains a model statement that contains the items of information that must be included in the ERISA rights statement. Plans that elect to use the model statement will be deemed to comply with this particular requirement.)
16) In the case of a pension plan that provides a joint and survivor annuity benefit, a description of the nature of the benefit, as well as any election to be made to select or reject the joint and survivor benefit.
17) In the case of a pension plan, a statement whether or not the plan benefits are insured by the Pension Benefit Guaranty Corporation under Title IV of ERISA, and a statement why the benefits are not so insured, if that is the case. If the plan benefits are insured under Title IV, the pension benefit guaranty provisions of Title IV are to be summarized and the statement shall list the address of the Pension Benefit Guaranty Corporation, and indicate that additional information about Title IV can be obtained from the plan administrator or the Pension Benefit Guaranty Corporation. (N.B. DOL regulation 2520.102-3(m) (3) contains a model statement that may be used by plans whose benefits are insured under Title IV.)
18) In the case of a pension plan, a description and explanation of the plan provisions in regard to determining years of service for eligibility to participate, benefit accrual (including the requirements for full benefit accrual, as well as the proration of benefits for partial years of service), vesting, and breaks in service.
19) In the case of a pension plan that will use the "cutback" rule announced in Internal Revenue Service Revenue Ruling 76-378, IRB 1976-40, October 4, 1976 (relating in general to a permissable plan amendment under final regulations that will retroactively reduce the vesting or benefit accrual of

a participant), a description of the plan rights and benefits subject to modification, the nature of the modifications, reference to the plan provisions concerned, and reference to the sections of the summary plan description where such interim provisions are described. The statement complying with this requirement may be printed within the text of the summary plan description, or may be printed on a separate sheet and distributed with the summary plan description.

While the list of information items required to be disclosed to participants is formidable, the Department of Labor's regulations regarding the style and format of the summary plan description do nothing to lessen the difficulty of preparing this disclosure document. As required by DOL regulations 2520.102-2(a), the summary plan description is to be written in a manner calculated to be understood by the "average plan participant," and is to apprise the participants and beneficiaries of their rights and obligations under the plan. In this regard, the regulation counsels the consideration of the level of comprehension and education of the typical plan participants, the complexity of the plan provisions, the limitation or elimination of technical jargon, and the use of clarifying examples.

Regulation 2520.102-2(b) addresses the general format and physical preparation of the summary plan description. The document may not mislead, misinform, or fail to inform the participants; exceptions, limitations, reductions, and other restrictions of plan benefits are to be summarized (to the extent of style, captions, printing type, and prominence) in the same manner as plan benefits; and the general balance to be struck is to neither exaggerate the benefits nor minimize the limitations. Additionally, if the description or summary of benefit restrictions is not in close conjunction to the description or summary of plan benefits, a clear notation of the page describing the restrictions must be placed at the point where benefits are described.

Interim Regulations For "Beneficiaries" Of Pension Plans

As required by earlier Department of Labor

regulations, beneficiaries receiving benefits from pension plans were to receive a copy of the generally mandated summary plan description with notations of those information items that pertained to the beneficiary. DOL interim regulations now provide an alternative method of complying with the summary plan description requirements in regard to a retired participant, a separated participant with vested benefits, and a beneficiary receiving benefits. DOL interim regulation 2520.104b-4(a) (1) sets forth the required contents of a summary plan description for retired participants and beneficiaries receiving benefits, and 2520.104b-4(a) (2) sets forth the corresponding requirements for separated participants with vested benefits. The following information is to be included in the document:

Retired Participants And Beneficiaries Receiving Benefits

- Items numbered 1 through 8, 12 through 15, and 17, as shown above.
- A statement whether or not the benefit being received will continue in the same amount and for the period specified in the payment mode selected at retirement. If the payment may be changed, a description is required of the plan provision under which the benefit may be reduced, changed, terminated, forfeited, or suspended.

Separated Participants With Vested Benefits

- Items numbered 1 through 8, 12, and 14 through 17, as shown above.
- If a statement of the dollar amount of the vested benefit or the method of calculating the benefit was furnished at or after separation, a declaration that such statement was previously furnished and that a copy of such statement will be furnished by the plan if requested.
- If a statement of the dollar amount of the vested benefit or the method of calculating the benefit was not furnished at or after separation, the plan must furnish that information together with the summary plan description.
- A description of the form and duration of payments or a description of the optional settlement modes available under the plan.
- A description of any plan provision under which a benefit may be reduced, changed, terminated, forfeited, or suspended.

The regulations governing the content of the summary plan description for these classes of former participants and beneficiaries receiving benefits also require that the document be prepared in the style and format required by DOL regulation 2520.102-2(a), and adhere to the general format required by DOL regulation 2520.102-2(b).

Foreign Language Notice

In addition to the above considerations, the makeup of the participants covered by the pension or welfare plan must be examined to determine whether the summary plan description will have to contain a foreign language notice, as required by DOL regulation 2520.102-2(c). The test to determine whether the notice is required differs depending upon the number of plan participants and the portion of those participants who are literate only in the same non-English language. In the case of plans covering fewer than 100 par-

ticipants at the beginning of the plan year, a foreign language notice in the summary plan description is required if 25 percent or more of all plan participants are literate only in the same non-English language. For employee benefit plans covering more than 100 participants, the notice is required if 500 or more participants, or 10 percent or more of all plan participants, whichever is less, are literate only in the same non-English language.

The foreign language notice is to be in the language common to the plan participants who activate the notice requirement, and is to be prominently displayed in the summary plan description. The notice is to inform the participants that they can obtain assistance in understanding their rights and obligations under the plan and clearly describe the procedures they must follow to obtain such assistance. The assistance provided to such participants need not involve written materials, but the assistance given is to be in the language common to such participants.

Disclosure and Reporting Dates

The deferral of the requirements to file and disclose the initial summary plan description has generally entailed the distribution of an ERISA Notice (as specified in DOL regulation 2520.104b-5) to pension and welfare plan participants and, for pension plans, beneficiaries receiving benefits. The employee benefit plans that opted for such a deferral of the disclosure requirements will, in general, now be required to distribute the initial summary plan description no later than November 16, 1977 or, in the case of pension plans that filed a request for determination with the Internal Revenue Service within the period prescribed in I.R.C. section 401(b), by the later of November 16, 1977, or 90 days after the request for determination receives a final disposition.

Welfare Plans

DOL interim regulation 2520.104-5, in general, provides for the November 16, 1977, compliance date for two categories of welfare plans. Those categories are welfare plans that became subject to Part 1, Title I of ERISA before December 2, 1976, and distributed the required ERISA Notice to plan participants; and welfare plans that became subject to Part 1, Title I on or after December 2, 1976, but before July 19, 1977 (no requirement to distribute the ERISA Notice). Welfare plans that fall into either of these two categories must file a copy of the summary plan description with the Department of Labor and distribute the summary plan description to plan participants no later than November 16, 1977, as prescribed by DOL interim regulation 2520.104-5(c).

Welfare plans becoming subject to Part 1, Title I of ERISA on or after July 19, 1977, are subject to the reporting and disclosure requirements of DOL regulation 2520.104a-3 (relating to filing a copy of the summary plan description with the Department of Labor) and DOL regulation 2520.104b-2 (relating to furnishing the summary plan description to participants). In general, the summary plan description must be furnished to all plan participants and a copy filed with the Department of Labor no later than 120 days after the plan first becomes subject to Part 1 of Title I. Additionally, there is an ongoing requirement as it relates to new plan participants. As employees first become plan participants, they are to be provided with the summary plan description no later than 90 days after they begin participation.

Pension Plans

DOL interim regulation 2520.104-6 prescribes the compliance date for several categories of pension plans and, in several instances, the final date by which a distribution of the summary plan description is required is determined by whether or not the plan has requested a letter of determination from the Internal Revenue Service within the period prescribed under I.R.C. section 401(b). In general, under DOL interim regulation 2520.104-6(c) (1), pension plans that became subject to Part 1 of Title I before March 17, 1977 (plans subject to Part 1 of Title I before December 2, 1976, were subject to the ERISA Notice requirements), and requested a letter of determination from the Internal Revenue Service within the prescribed period, will have to file and distribute the initial summary plan description on or before the later of November 16, 1977, or 90 days after the date the Internal Revenue Service issues a final determination with respect to the request, the request is withdrawn, or the request is otherwise finally disposed of. Pension plans that

became subject to Part 1 of Title I within the time period described above, but that did not request a letter of determination from the Internal Revenue Service, will have to comply with the requirements for an initial summary plan description by the later of November 16, 1977, or the close of the period prescribed in I.R.C. section 401(b) and the regulations thereunder.

In the case of pension plans (other than master, prototype, or practitioner pattern plans) that became subject to Part 1 of Title I on or after March 17, 1977, but before July 19, 1977, distribution and filing of the summary plan description is to be made on or before November 16, 1977, as prescribed in DOL interim regulation 2520.104-6(a) (2). Pension plans that adopted a master, prototype, or practitioner pattern plan on or after March 17, 1977, are provided with a special rule under DOL interim regulation 2520.104-6(d). Such plans will have to distribute and file the initial summary plan description on or before the later of November 16, 1977, or the close of the remedial amendment period prescribed in I.R.C. regulation 1.401b-1(d) (1) or (2).

Pension plans becoming subject to Part 1 of Title I on or after July 19, 1977, as in the case of similarly situated welfare plans, are subject to the reporting requirements of DOL regulation 2520.104a-3, and the disclosure requirements of DOL regulation 2520.104b-2. In general, the summary plan description must be furnished to all plan participants (see DOL interim regulation 2520.104b-4(a) (4) for the requirements relating to retired participants, separated vested participants, and beneficiaries receiving benefits) and a copy filed with the Department of Labor no later than 120 days after the plan becomes subject to Part 1 of Title I. Additionally, there is an ongoing requirement as it relates to new plan participants. As employees first become plan participants, they are to be furnished with the summary plan description not later than 90 days after they begin participation.

Conclusion

Although some of the information to be disclosed in the summary plan description can be handled with a simple recitation of factual information, it should be recognized that the preparation of a summary plan description should be given very careful thought and attention. Descriptions of substantive plan provisions, such as eligibility to participate, benefit accruals, vesting, and the possible forfeiture, reduction, or suspension of benefits, will be difficult to summarize. Additionally, the practitioner must keep in mind that the description should be aimed at the "average plan participant" and the level of comprehension and education of typical plan participants is to be considered in the preparation of the document. Formerly, it was not uncommon for employers to provide their employees with a brief (perhaps one or two pages) summary of the terms of the company's employee benefit plans. Based on the summary plan description requirements, it would appear that that day is ended. It is estimated that approximately 8,000 pension plans are maintained in the state of Washington, and it seems probable that the number of welfare plans exceed that number. It will only be through a vigorous effort on the part of all practitioners whose clients sponsor such plans that compliance with these difficult and complex requirements will be accomplished in a timely fashion. □

Approved Continuing Legal Education Activities

The Washington State Board of Continuing Legal Education has approved the following courses for use toward the mandatory continuing legal education requirement established by Admission to Practice Rule 11.

The following listing is in three parts. First a listing of program sponsors which have received general sponsor accreditation — all courses presented by such sponsors, with the exception of any noted as specifically disapproved, may be used toward the CLE requirement. Second, a listing of individual courses approved by the Board. Third, a listing of courses which have been disapproved — attendance at these courses may not be used in satisfaction of the CLE requirement.

ACCREDITED SPONSORS

AAA
American Arbitration Association

AMERICAN SOCIETY OF HOSPITAL ATTORNEYS

NATIONAL COLLEGE OF JUVENILE JUSTICE

UNIVERSITY OF PUGET SOUND SCHOOL OF LAW-CLE PROGRAMS

UNIVERSITY OF WASHINGTON SCHOOL OF LAW-CLE PROGRAMS

COURSES APPROVED

ALASKA BAR ASSOCIATION

Criminal Trial Proceedings
Oct. 1-2, 1977: Anchorage 12.00

AMERICAN ARBITRATION ASSOCIATION

Uninsured Motorist Law & Arbitration in Washington
Oct. 31, 1977: Seattle 6.00

AMERICAN HOSPITAL ASSOCIATION — AMERICAN SOCIETY OF HOSPITAL ATTORNEYS

Institute on Hospital Law
Mar. 17-18, 1977: Orlando, FLA 10.00

Institute on Hospital Law
Oct. 13-14, 1977: Denver 10.00

AMERICAN SOCIETY OF INTERNATIONAL LAW

71st Annual Meeting
April 21-23, 1977: San Fr. 14.25

BLUE CROSS ASSOCIATION

11th Annual Lawyers Workshop
Oct. 27-28, 1977: Chicago 11.50

FEDERAL PUBLICATIONS, INC.

Construction Contract Litigation
Nov. 16-18, 1977: San Fr. 13.75

Construction Labor Relations
Oct. 13-14, 1977: San Fr. 11.00

Competing for Contracts
Nov. 28-30, 1977: LA 16.50

FEDERATION OF INSURANCE COUNSEL

Annual Meeting
July 13-17, 1977: Colo. Spr. 5.25

Semi-Annual Meeting
Feb. 17-19, 1977: Phoenix 4.00

INTERNATIONAL CIRCULATION MANAGERS ASSOCIATION

ICMA Legal Symposium
Feb. 3-5, 1977: Dallas 10.50

LEWIS & CLARK LAW SCHOOL

Antitrust Law Symposium
March 18, 1977: Portland 6.75

MIDWEST PRACTICE INSTITUTE

2nd Annual Business Planning Seminar
Jan. 9-13, 1977: Honolulu 15.00

NATIONAL COLLEGE OF JUVENILE JUSTICE

Graduate College
June 19-24, 1977: Sun Valley 30.00

Summer College I
July 31-Aug. 12, 1977: Reno 60.00

Summer College II
Aug. 14-26, 1977: Reno 60.00

Fall College
Nov. 6-18, 1977: Reno 60.00

NORTHWESTERN UNIVERSITY-TRAFFIC INSTITUTE

Homicide & Major Crime Scene Investigation
Aug. 15-19, 1977: Bellevue 22.50

OREGON STATE BAR ASSOCIATION

1977 Annual Meeting
Sept. 29-30, 1977: Seaside 5.00

Discrimination Law
Oct. 22, 1977: Portland 5.25
Oct. 27, 1977: Roseburg 5.25
Oct. 28, 1977: Sunriver 5.25

PRACTISING LAW INSTITUTE

Foreign Trusts & Estates
Nov. 7-8, 1977: Los Ang. 10.00

Practical Will Drafting
Nov. 3-4, 1977: San Fr. 13.00

Remedies for Breach of Contract
Dec. 1-2, 1977: Los Ang. 9.00

SECURITIES INDUSTRY ASSOCIATION

Compliance & Legal Seminar
Mar. 20-23, 1977: Newport Beach Calif. 13.75

SOUTHWESTERN LEGAL FOUNDATION

Short Course on Labor Law
May 23-27, 1977: Dallas 35.00

Short Course on Antitrust Law
Sept. 26-30, 1977: Dallas 30.00

SPOKANE LEGAL SECRETARIES ASSOC.

New Appellate Court Rules
Jan. 29, 1977: Spokane 3.00

WASHINGTON JUDICIAL CONFERENCE

Annual Meeting
Sept. 11-14, 1977: Bellevue 9.00

WASHINGTON SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

Tax Qualified Retirement Plans
Oct. 14-15, 1976: Seattle 16.00

17th Annual Northwest Tax Institute
Oct. 20-22, 1977: Maui 10.50

WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

Appellate Judges Conference
April 25-27, 1977: Union 16.00

Defense Attorneys Criminal Law Seminar
Oct. 15-16, 1977: Seattle 13.00

WASHINGTON STATE PATENT LAW ASSOC.

Preparing a Case for the Trademark Trial & Appeals Board
Mar. 16, 1977: Seattle 1.50

Major Changes: Copyright Act of 1976
May 4, 1977: Port Ludlow 2.50

WESTERN STATES ASSOCIATION OF TAX ADMINISTRATORS

26th Annual Conference
Sept. 11-14, 1977: Spokane 13.50

WILLAMETTE UNIVERSITY COLLEGE OF LAW

Arbitration Advocacy in Public Education
Oct. 30-Nov. 5, 1977: Portland 47.25

COURSES NOT APPROVED

SEATTLE CLAIMS ADJUSTERS ASSOC.

Second Annual Claims Seminar
Oct. 15, 1976: Seattle

SOLO CENTER

Fractured Family: Myths & Realities
Sept. 30-Oct. 1, 1977: Seattle

WAYNE REAL ESTATE SCHOOLS

Total Immersion Real Estate Review
Various Dates: Los Angeles ☐

Photo Highlights 1977

John Huneke, Spokane, fires a shot at the Business Meeting

Chief Justice Charles T. Wright, Olympia

Al McGuire, guest speaker and 1977 NCAA basketball champion coach

Board Member Lowell ("I *could* have won the tennis tournament") Halverson, Seattle

Photo credits: John D. McLauchlan, Seattle and Williams Bros. Photographers. Ltd, Vancouver, B.C

of the Annual Meeting

Outgoing president Riddell, Seattle; incoming president Novack, Everett

Marge and Larry Rumley, Seattle

Dolores Riddell, Seattle

In the heat of the Business Meeting . . .

Honored for 50 Years in the Profession

Fifty one lawyers have been awarded a Special Award of Honor by the State Bar in recognition of fifty years or more of service to the profession. Those gentlemen shown above were among those who received their award certificates at the annual meeting in Vancouver. The State Bar is proud of the contribution to the profession made by each of these lawyers.

Those who were awarded the Special Award of Honor include:

Clark W. Adams; Wendell R. Alabaster; William M. Allen; Paul P. Ashley; George W. Clarke; A. Draper Coale, Jr.; Gerald DeGarmo; Margery G. Dunham; Arthur G. Dunn, Jr.; Ralph E. Foley; George H. Freese; Thomas M. Green, Jr.; Herbert A. Greenbank; C.W. Halverson; Jeffrey Heiman; Lawrence R. Hennings; Hon. Charles Horowitz; Roy E. Jackson; Orlo B. Kellogg; Lloyd F. LaLonde; W. Byron Lane; W.A. Langlow; J. Leon Lavigne; A.L. Lee; Emmett G. Lenihan; Hon. William J. Lindberg; J. Harris Lynch; Ben A. Maslan; George W. McCush; John A. Milot; Clarence W. Pierce; R.L. Popwell; Edgar P. Reid; W.A. Richmond; Ward W. Roney; Lowden Sammis; Harold S. Shefelman; Spencer Short; T.J. Smith; Hart Snyder; Russell F. Stark; Roy C. Stroud; Joseph A. Sweeney; Dinsmore Taylor; George C. Twohy; W. Paul Uhlmann; Claude E. Wakefield; C.G. Walters; John F. Walthew; Maude E. Woodward; Oscar Zabel.

Computerized Briefing

At the seventh National ABA Conference on Office Practice, one especially informative paper was presented by Richard McGonigal of Squire, Sanders & Dempsey, of Cleveland, Ohio, a firm of over 100 lawyers. Every individual practitioner or member of a small or moderate sized firm has dreamed of the time when computerized briefing will be available to him. I have always felt that it would not be too far away. However, McGonigal's dissertation brought me to a rude awakening.

I had a vague awareness of two systems and my son had described operating a Lexis Terminal at the Dewey firm in New York City. I was unaware that there is a third system called Juris owned and operated for the benefit of the Federal Government which combines the best features of both the commercial services.

He first described WESTLAW system because it is the easiest for a lawyer to understand and is produced by West Publishing Company of St. Paul, Minnesota. It utilizes the key number copyrighted headnotes of the complete West Reporter system and was relatively simple to computerize so that they have coverage of all of the headnotes of reporters, both State and Federal. However, they did not include the text of all of the cases because of the expense and limitation of computer capacity, so it has no capacity for giving you a complete print out of a given case. Consequently, a WESTLAW Terminal is not the equivalent of a complete library. Also, if you have a problem, you must approach it as you do in standard briefing by deciding the legal classification the problem falls under and selecting the title and subtitles under which the editors have classified the material, and for all practical purposes, arriving at a key number. If you guess wrong at the classification used by the editors, you are out in the cold. An example of this problem familiar to us in a community property state is that material under the general heading, husband and wife, includes community property. Obviously, this is because there are not many community property states and the editors think in terms of common law states. Assuming that you pick the wrong classification, you may miss the pertinent cases. However, you do have access to headnotes in the complete State and Federal Reporter System.

The second system is called Lexis and it uses a descriptive word approach and requires the use of computer language rather than legal language. If your case is in the field of industrial accidents, you punch in that key, narrowing it down by additional descriptive words such as scaffold, broken pelvis, etc. Once you have glanced through the full text of the decisions, you can order a print out of the full text. However, Lexis, which is produced by Mead, 200 Park Avenue, New York, N.Y. 10017, has no Washington cases in its data bank. Actually, it only covers ten states reporters, including Ohio, as well as considerable Federal materials, making it practical for a firm in Cleveland. Several states are currently negotiating with Mead to include their reports, but we were advised that the costs will prohibit them from including a state the size of Washington. So, for practical purposes, Lexis is not a viable option for Washington lawyers. McGonigal took the position that having both ser-

vices was not feasible for a firm of less than 100 lawyers, that it took considerable training to use WESTLAW and that it took a great deal more training to use Lexis. It shattered my dream of having a County library install a terminal available on a shared-time basis. In the first place, the amount of training required of the lawyer or assistant makes it impractical for the average practitioner to participate on a part-time basis. In the second place, Los Angeles County has attempted to set up an arrangement for a terminal with WESTLAW, but, in spite of the tremendous resources of that large well organized bar, in my last report, they have not yet been able to put together an operative agreement. As far as I know, there are no County library situations anywhere in the United States that have been able to do so. In a large firm of over 100 lawyers, their costs run over $100.00 per hour for utlizing the terminal 100 hours per month, which indicates that for a limited user the costs would be astronomical.

The only conclusion I could come to was that the computerized briefing is a long ways off to the average practitioner in the State of Washington. The corollary is that whenever you have the Federal Government for an antagonist, the government attorneys have access to the Juris data bank, which theoretically gives him complete coverage and puts you at a terrible disadvantage.

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. ☐

EAST KING REPORT

By **BARRY J. HASSON**

Bellevue was the scene for the 1977 Judicial Conference which gathered together judges from all over the state at all levels of the judiciary. Law firms on the East Side contributed to provide hors d'oeuvres at a cocktail hour which was attended as well by East Side attorneys who were able to meet judges with whom they would otherwise have little opportunity to come in contact.

Scott East reports that he and **Ron Groshong,** an East Side resident, teamed up and won the men's doubles tennis tournament at the State Bar Convention. He didn't state how many hours of credit he ended up with as a result of his attendance at the convention.

Dick McDermott will be pro tem-ing in Northeast District Court and he has told this reporter that the fact that he has prosecuted longer than he has defended will not affect how he will decide his cases. The East Side Defense Court Watchers Committee will be making spot checks just to make sure.

Gordon L. Creighton and **Douglas W. Scott** announce that they have relocated their offices in Bellevue. Inslee, Best, Chapin & Doezie announce that **Henry R. Hanssen, Jr.** has become an associate of the firm.

SEATTLE - KING REPORT

By **JOHN SOLTYS**

This year's State Bar Convention was busier and more successful than ever. It does the young lawyers a great deal of good to see the sudden and renewed vigor with which the "old" lawyers have returned to the fold and have once again taken an interest in continuing legal education. At a seminar, one old timer was heard to say "so that's what that strict liability thing was all about. I sure hope they don't make it a law." Next year an introductory seminar on the UCC will be offered. For those who refuse to acknowledge innovations in the law, interest should be found in Ms. **Sally Saxon** who has established a free-lance legal research and briefing service for other attorneys. Ms. Saxon is a member of the Washington State Bar and is a 1976 graduate of Northwestern University School of Law. She has set up her offices at 1305 Queen Anne Avenue North, Seattle, Washington, 98109, 283-5531.

Congratulations are in order to **William H. Neukom** of MacDonald, Hoague & Bayless who was recently installed as the Chairman of the American Bar Association's Young Lawyers Division. **John R. Tomlinson** of Jones, Grey & Bayley was elected to a three year term on the counsel of the section of litigation of the American Bar Association. Closer to home, **Faith Enyeart** was appointed by **Mayor Wes Uhlman** as a citizen member of the Seattle Environmental Review Committee.

If you haven't noticed yet, a professional volley ball team has arrived in Seattle (The Seattle Smashers). The team is "headed up" by none other than our own brothers at the bar including **Bob Mussehl,** President and **Edmund Birnbaum,** Executive Vice President. To discourage the rest of the Bar from suing the Smashers, **Phillip Ginsberg** has been appointed Special Counsel, **John C.T. Conte,** General Counsel, and **Phillip Thom** as Retained Counsel for the new club.

J.H. Zulauf has joined the Mundt firm which now goes by the name of Mundt, McGreggor, Happel, Falconer & Zulauf with offices at 1230 Bank of California Center, Seattle, Washington. **John P. World** has become an associate with **Joseph Mijich** who has relocated his offices to 3920 Bank of California Center, Seattle, Washington, 98164. **Henry R. Hanssen, Jr.** has left the United States Navy where he was a legal officer and is now an associate with the firm of Inslee, Best, Chapin and Doezie, P.S. **Glen R. Nelson** has opened an office for the practice of law at 2424 The Financial Center, Seattle, Washington, 98161. **Dean Sargent** has opened an office in the Howard Building in Pioneer Square.

John Henry Browne, previously Assistant Attorney General for the State of Washington and most recently Chief Trial Attorney for the Seattle-King County Public Defender, has opened his own private law office at 2 Pioneer Square, Suite 400, 614 First Ave. Seattle.

Lenihan, Ivers & McAteer, P.S., announce the relocation of their law offices as of November 7, 1977, to 13th Floor, Seattle Tower, 1218 Third Avenue, Seattle, Washington 98101. 624-4212.

PIERCE REPORT

By **MICHAEL J. TURNER**

Some of the unreported changes which have occurred in the recent months find that **Thomas C. Lowry** is now engaged in the general practice of law on his own. Healy, Healy & Murdach have advertised that **Donald L. Schwendiman** has become an associate. **Larry Ross** has moved his office and is on his own and **Richard L. Phillips** and **Stephen W. Burke** have joined Hutchins, Plumb & Wheeler as associates.

As is my custom, I feel that I should make mention of certain members of the local bar who have had meritorious events happen to them since the last report. It should be noted that **Louis Muscek** completed his 67th year of the active practice of law; that **Joe Quinn** has had a new baby; that **John Miller** and **Gary Rentel** have purchased new homes. Gary's was purchased from **Dave Murdach,** who also purchased a new home.

It should also be noted that **Bob Beale** receives the award for having the best and longest lasting tan of 1977, and **Gary Gasaway** spent the summer picking up various awards for his marksmanship. Gary calls it a bad day when he only hits 99 out of 100 targets. Finally, a special award is due to **Fred Fleming,** who may be the last Husky fan in Pierce County.

As the close of 1977 gets near, keep an eye on Interstate 5 for all Pierce County lawyers who have not yet received their 15 hours of CLE credit. Most of us enjoy a nice drive to Seattle in the dead of winter to spend the day at a seminar.

SAN JUAN REPORT

by **MICHAEL C. REDMAN**

Ye scribe was not aware, at the time of the last report, that **Len Kerr** had moved into the county. Len is practicing on Lopez in the Cormorant Building. Ye scribe is moving to Olympia to work for the Washington Association of Prosecuting Attorneys in an effort to hold the increase in attorneys in the county over the last five years to 300%.

The local Bar committee on First Amendment Freedoms is coping with the problem of sound trucks — a media that would get the message through to those who don't watch television — and hoping that **Jack Nason** won't put up a billboard on his front lawn. It would give him first crack at the immigrants as the ferry rounds Lopez for Orcas and Friday Harbor, but Jack isn't that kind of a guy.

Orders for the San Juan County Code are not inundating the prosecutor's office — probably because we couldn't get CLE credit for the purchase — but it is available and it would make a rather handsome addition to anyone's desk. And so it goes . . . and I go. . .

SOUTH KING REPORT

By **JAMES L. VARNELL**

New Associations. After four years with the Seattle firm of Jones, Grey & Bayley, **Carolyn**

J. Hayek has opened her law office in Federal Way, sharing office space with the law firm of Stead & Vogel. **John Tidwell,** formerly with Stead, Vogel & Tidwell, has opened his office in Federal Way at 33737 - 9th Avenue South. **Roger A. Castelda** and **James M. Eeckhoudt,** both 1974 graduates of Gonzaga University Law School have opened their office in Renton. Within the past year or so the firm of Bonjorni, Harpold & Fiori has added the following associates: **Michael M. Hanis,** a 1975 graduate of Willamette University Law School; **Loren D. Combs,** a 1976 graduate of the University of Washington School of Law; and **Deborah K. Hankins,** a 1976 graduate of the University of Puget Sound School of Law.

Book Reviews. A new feature of this report is a review of scholarly literature by local counsel. First, in the non-fiction department is the work of **Rynold C. Fleck** entitled *How to Win Summary Judgment Motions in Mason County.* Author Fleck has acknowledged the invaluable assistance of **Joe L. Snyder,** Shelton attorney, in the Foreword of his tome. **David R. Koopmans** has recently published *How Pre-Assigned Cases Can Be Settled Big and Quickly with South King County Attorneys.* A welcome addition to the bookstores is **Mel Kleweno's** *How to Tour Black Diamond on $7.00 a Night.* **James C. Lawrie** (in association with **Arlene Ross**) is the author of *When Not to Accept the Prosecuting Attorney's Offer – How I Won My First (and Only) Felony Trial.* Lastly, in the fiction department and what surely is "must reading" for any South King County attorney, **David L. Harpold** has published *How I Assure Opposing Counsel I Am Not Interested in Playing Games With This Case.*

SPOKANE REPORT
By **ROBERT H. HUNEKE**
and **BRYAN P. HARNETIAUX**

Randall and Danskin have announced the addition to their staff of **Peter J. Grabicki.**

At the Annual Bar Convention many county attorneys participated in the numerous activities available. Judge **Harold D. Clarke** joined a few of Spokane's finest in the six-mile run including **Gene Annis, Ron Douglas** and **Doug Tuffley** among others. It is also rumored that **Dick McWilliams,** local president, completed one full mile. □

Discipline

Lloyd A. Eyrich Receives Reprimand

Newport Attorney Lloyd A. Eyrich has been reprimanded for his violation of DRA 1.1(j) and DRA 2.6 of the Discipline Rules for Attorneys. The Board of Governors issued the reprimand to Mr. Eyrich at its meeting on September 14, 1977.

Mr. Eyrich was reprimanded for his failure to cooperate with State Bar Counsel in an investigation of a complaint filed agaist him and his additional failure to cooperate with the Local Administrative Committee in the investigation of a second complaint filed against him.

Briefly Noted

Neukom Heads ABA Young Lawyer Division

William H. Neukom of Seattle was installed as chairman of the American Bar Association's Young Lawyers Division at the ABA's recent annual meeting.

The Young Lawyers Division has more than 100,000 members and is the largest of the ABA units. The division stimulates interest of young lawyers in bar association activities, conducts programs of special interest to new lawyers, and coordinates with the activities of more than 250 state and local bar association young lawyers' groups.

Neukom received his bachelor's degree from Dartmouth College and his law degree from Stanford Law School. He has been in private practice in Seattle since 1968.

Armstrong Re-elected to Board of Directors, American Judicature Society

Grant Armstrong, partner in the law firm of Murray, Armstrong & Vander Stoep in Chehalis, has been re-elected to the Board of Directors of the American Judicature Society.

The American Judicature Society is a national membership organization of civic leaders, lawyers and judges founded to spearhead judicial improvements and court modernization.

Mr. Armstrong is on the Board of Directors of the Pacific National Bank of Washington and serves on the House of Delegates and Board of Governors of the American Bar Association. He is a past president of the Washington State Bar Association. Mr. Armstrong is a fellow of the American College of Trial Lawyers, American Bar Foundation and College of Probate Counsel. He also serves as a member of the Board of Directors of the University of Puget Sound Law School in Tacoma.

Annual Meeting Sports Events Winners

The dust has cleared, and here are the winners of the sports contests held at the Annual Meeting in September. Cheers and a tip of the cup to the following homegrown athletes:

Golf Tournament

Low Gross — Charles McClure (Burien) 76; **Low Net** — Storrs Clough (Monroe) 65; **Highest Admitted Score** — L. Frank Johnson (Tacoma) 141; **Closest to the Pin on Selected Par 3** — Jeffrey Spence (Seattle); **Longest Drive** — Rachael Whittington (Issaquah).

Tennis Tournament

Men's Doubles: *Division 1* – Bill Coats (Tacoma) and Paul M. Larson (Yakima); *Division 2* – Scott East (Bellevue) and Ron Groshong (Seattle); *Division 3* – Paul Codd (Seattle) and Arthur Swanson (Renton); *Division 4* – Robert R. Beezer (Seattle) and Rob Beezer (Seattle).

Women's Doubles: *Upper Division* – **First Place Tie** — Rita Dohn (Yakima) and Inga Wiehl (Yakima); Kristina Larson (Yakima) and Karen Pratt (Yakima); *Lower Division* – **First Place** — Mia Coats (Seattle) and Lucy Steers (Seattle).

Mixed Doubles: *Division 1* — Bill and Wanda Coats (Tacoma); *Division 2* — Dick Bennett and Tyree Bennett (Richland); *Division 3* — Rita and Tom Dohn (Yakima); *Division 4* — Margaret Evans (Seattle) and Ron Trompeter (Seattle); *Division 5* — Steve Hopp (Seattle) and Palmer Robinson (Seattle).

Purple Heart — Sean Sheehan (Tacoma) Injured in the course of battle and hopefully back on his feet.

Jogging Contest

Men's One Mile: First — Jerry Cronk (Seattle); **Men's One Mile: Second** — Barry Dahl (Longview); **Men's Two Mile: First** — George Nethercutt, Jr. (Seattle); **Men's Two Mile: Second** — Mike Green (Seattle); **Men's Three Mile: First** — Peter Vial (Seattle); **Men's Three Mile: Second** — James M. Healy, Jr. (Tacoma); **Men's Four Mile: First** — Clancy Tipton (Sumner); **Men's Four Mile: Second** — Lawrence Little (Bremerton); **Men's Fifth Mile: First** — Tom Stuen (Alexandria, VA); **Men's Fifth Mile: Second** — Frederick Lorenz (Seattle); **Men's Sixth Mile: First** — Steven L. Jones (Catonsville, MD); **Men's Sixth Mile: Second** — Sidney J. Strong (Seattle); **Men's Sixth Mile: Over 50** — Joseph Barreca (Seattle); **Men's Sixth Mile: Over 50** — Harold Clarke (Spokane); **Women's One Mile: First** — Linda Youngs (Spokane); **Women's One Mile: Second** — Bereth Estep (Seattle); **Women's Second Mile: First** — Margaret Mekeown (Seattle); **Women's Second Mile: Second** — Arlene Strong (Seattle); **Women's Fourth Mile: First** — Carolyn Gossard (Seattle); **Women's Fourth Mile: Second** — Julia Gongales (Yakima); **Women's Sixth Mile:**

Notices

Classified Advertising Rates

Per issue: 25 words — $5 (minimum charge). Each additional word — 50¢. Confidential reply service — $2. Advance payment required. Accepted only from members of the WSBA.

For Sale: Washington Reports, 1st series. Seattle — (206) 284-6578.

Space Available: Share nice Lynnwood office space. Secretary, books, and equipment included. $750.00. 774-8893.

Office Space Available: 14th Floor, Seattle Tower, Air-conditioned, View. Choice of 311, 933, 1244, or 1900 square feet. (206) 624-1040.

Bellevue Office Space Available: 1,600 sq. ft., new building under construction, city center, parking under, air-conditioning, utilities, office layout to tenant specifications, lease occupancy December 1977. Phone (206) 454-7277.

For Sale: 8 dictation reel units, Norelco make with mikes, headsets, foot pedals and tapes. Original cost $395.00 being sold at only $190.00 per unit. Tapes sold at $2.00 each. Contact Luvera & Mullen, P.O. Box 427, Mt. Vernon, WA 98273 or call (206) 336-6561 for further information.

First — Inge Wiehl (Yakima); **Women's Sixth Mile: Second** — Linda Bush (Lummi Island); **Last Finisher** — Patricia Maxwell (Tacoma); **First Women Over 50** — Gretchen Thompson (Bellevue).

For Sale: Savin photocopy machine with table. Excellent condition. $1300.00 or take over payments of 47.00/mo. (206) 623-2468.

Space Available: Law office in Sea-First Bank Bldg. for one attorney. Attorney to share all facilities with firm specializing in patent, trademark and copyright law. Furnished or unfurnished. (206) 624-2460.

Space Available: Two attorneys to share prime Pioneer Square office space with two established attorneys. Reasonable rent, secretarial, etc. negotiable. Phone (206) 624-7364.

For Sale: Three IBM dictating units (model 271) and three transcribing units (model 272) $225.00 or offer. Two hand held units $100.00 or offer. Under Maintenance Contract. (206) 535-2211.

Wills Sought: For Virginia Sarah Stout and Oliver James Stout, both of Seattle, Washington. Please contact Jon M. Loreen, P.O. Box 46336, Seattle, Washington 98146, (206) 767-3210.

For Sale: Am. Jur 2nd, complete, $1,200.00, Am. Jur Pleading & Practice, complete, $375.00. Call Spokane, Washington, (509) 838-8364.

For Sale: ALR 3rd, 8956 Gravelly Lake Drive, S.W., Post Office Box 99607, Tacoma, Washington 98499. Telephone: 582-2727.

In Memoriam

Boynton Kamb, 64, of Mount Vernon, died Aug. 31. He was admitted to the Bar in 1938.

Nov. 17-18	CLE Seminar: **Estate Planning,** 1977, Olympic Hotel, Seattle, Washington. 2 days. Registration fee: $45.00 for members of the Estate Planning Council of Seattle, $55.00 for non-members.
Dec. 2	CLE Seminar: **Commercial Law I,** Thunderbird Inn, Yakima, Washington. Full day. Registration fee: $45.00.
Dec. 9	CLE Seminar: **Commercial Law I,** Greenwood Inn, Olympia, Washington. Full day. Registration fee: $45.00.
Dec. 16	CLE Seminar: **Commercial Law I,** Davenport Hotel, Spokane, Washington. Full day. Registration fee: $45.00.
Dec. 20	CLE Seminar: **Commercial Law I,** Seattle Center, Exhibition Hall, Seattle, Washington. Full Day. Registration fee: $45.00.

LAWYER PLACEMENT

1. Four-man Seattle law firm with primarily business and commercial practice desires associate to begin in fall, 1977. Must have good academic record, law review helpful. Send resume to Box 45, c/o WSBA.

2. Seattle area sole-practitioner looking for attorney to complement his already successful practice. Attorney handles personal injury, dissolution, and criminal cases. Looking for fellow attorney with business and corporate practice to be able to offer complete service to client. Arrangements negotiable. Please send inquiries to Box 11, c/o WSBA.

3. Three-man Seattle law firm with office on Queen Anne Hill and Maple Valley wishes to hire an associate with some experience, either in private practice in Washington or as a Rule 9 in King or Pierce County. Send resumes to 6½ Boston, Seattle, WA 98109. Please no personal or telephone inquiries at this time.

4. General practitioner, Aberdeen, with business practice emphasis seeking associate with two years trial experience. Send resume to Box 663, Aberdeen, WA 98520.

5. Associate position available with sole practitioner in the Central Washington area, general practice. Applicants must have at least one year of experience. Please submit resumes to Box 3, c/o WSBA, 505 Madison, Seattle, Washington 98104.

6. Position available immediately for an associate in our 3-man law firm. We would desire applicants that are interested in trial work, litigation and labor law negotiations. The salary is negotiable. Submit resumes to Box 7, c/o WSBA.

7. Seattle firm is seeking a lawyer with a minimum of five years experience in corporate/business practice, terms open. Must be a member of the Washington State Bar. Send resumes to Box 9, c/o WSBA. All replies will be handled confidentially.

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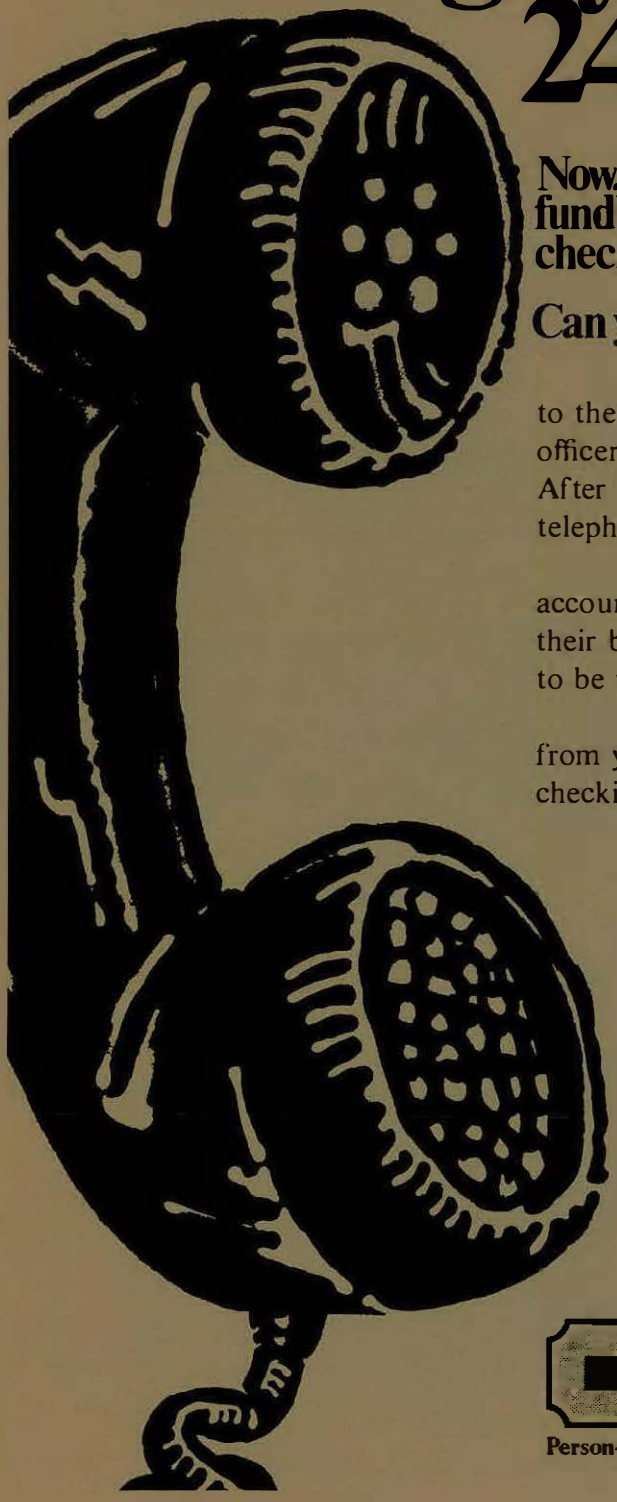

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