

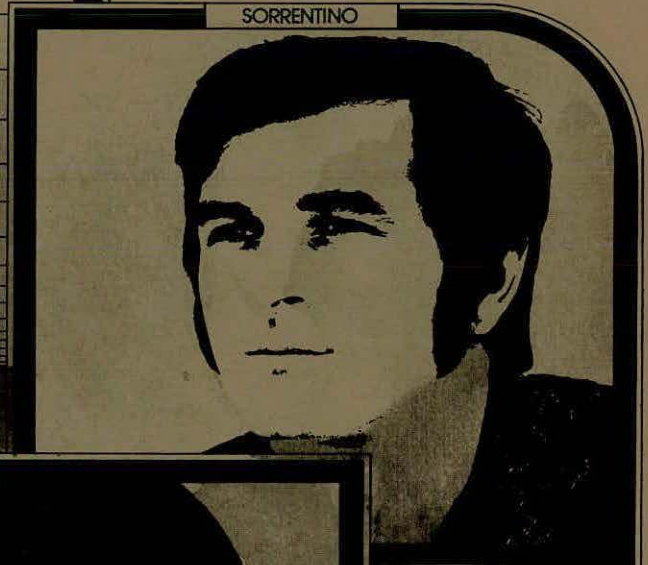
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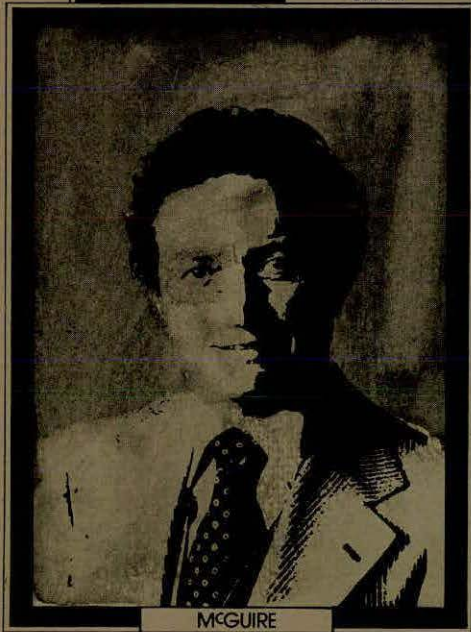
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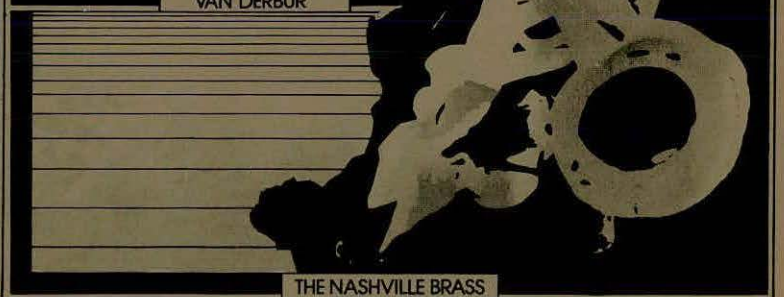
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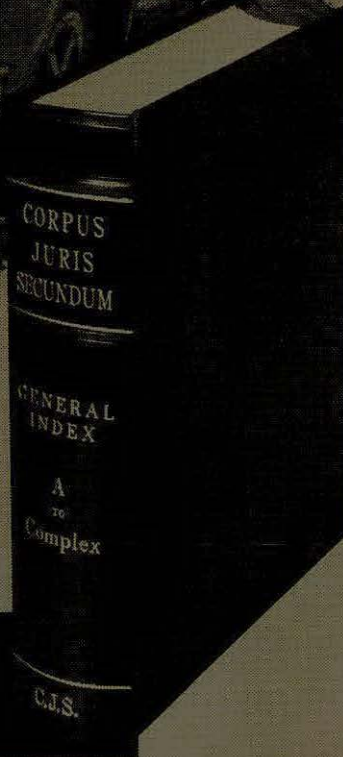
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Our Cover



This month's cover, by John McCarty, features the speakers who will headline the State Bar convention in September. They include, clockwise from upper left, Carl Stern, Judge Joseph Sorrentino, the Nashville Brass, Al McGuire, and, center, Marilyn Van Derbur.

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To the Members of the Washington State Bar Association:

The practice with all the new statutes, rules and administrative/judicial interpretations present uncounted pitfalls for the unwary lawyer.

Now that the legislature in its deliberate wisdom has invited defendants to countersue the plaintiff and his or her lawyers when they deem the lawsuits to be malicious we can expect the worst.

No longer will good faith always protect the lawyer from personal liability. So, at least until the courts are heard from on the interpretation of Senate Bill 2159 (malicious prosecution counterclaims), we should function as though every legal step in a civil action is risky. Most of us have dangerous areas that we learned of only by trial and error. There is no way the individual practitioner can be on top of all the snares and submerged rocks along the path of litigation or office practice.

Change of Publication Dates

Beginning with the October 1977 issue of the *Bar News*, the date of publication will be changed to the 25th of the month preceding the dated month. Thus, the October issue will be mailed on September 25. The August/September issue has been so designated only to reflect this change in dating. It is not a "double issue," and publication will continue on a monthly basis.

Every lawyer must have an experience worth sharing with his or her brethren.

This letter is a plea to all of you as fellow professionals to search your memory and if you have a tip or suggestion worthy of sharing send them along to my office or the state bar and we'll see if we can put together some kind of publication for distribution at cost to the bar.

We may even be able to get assistance from the malpractice carriers in preparing and funding this project. But first we must survey the response to this letter.

We cannot attend all the seminars. This may be a way to establish warning signals in the various fields of practice.

NEIL J. HOFF
Member ABA

Tacoma **House of Delegates**

Bar News, "Excellent"

Editor:

Several years ago I came to believe that the *Washington State Bar News* had become an excellent publication, the most worthwhile one that routinely passed across my desk as a lawyer or judge. (I believe this occurred originally as a result of the outstanding work of Ed Raftis.)

During the more recent years I felt that the articles had become less lively, principally because they seemed not to be by local writers but to be the reprints from other publications. In any event, I want to commend you for the excellence of the *Bar News* these



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days. The May issue is particularly lively and informative.

Write on!

**JUDGE ROBERT W.
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Seattle

Regulate Realtors' Activities

Editor:

The comments in the article entitled "Twilight of the Lawyer in Washington State" of your June, 1977 *Washington State Bar News* issue were graphically illustrated by a friend who is preparing to take her Real Estate Board Examination. A very large portion of the material she is required to learn deals exclusively with Washington Real Property Law.

If changes are to be made in the trend of real estate transactions being taken out of lawyers hands, then regulatory or legislative efforts must be made to direct realtors' activities into channels more applicable to their field rather than into areas of the law.

IAN LEDLIN

Spokane

Further Research on the Alcoholism Question

Editor:

"Why do they drink so much?" asks Jack Hepfer's doctor friend in the interview concerning lawyers and alcoholism, and without supplying any answer to that intriguing question, the article cops out and goes on to other matters. (*Bar News*, May, 1977.)

Sparing no expense to myself, I have long been studying this problem (in depth one might say) and I have stumbled upon some of the answers. My study has in-

cluded historical research, personal experimentation and observation, and considerable assembling of empirical data in the field.

Historically, of course, drinking to excess has always been a problem with lawyers, and my research indicates that at Common Law the problem arose primarily from the effects produced on the nervous system by constant contact with such elusive concepts as the Rule Against Perpetuities or the Rule Against the Remainder to the Grantor's Heirs. As a besotted barrister confessed ruefully before King's Bench one morning in 1783, "Last night I went through a whole case, trying to understand the Rule in Shelley's."

And it was well known at Common Law that only pints of "Jolly Good Ale and Old" could assuage the melancholy induced by being on the worthless end of the Doctrine of Worthier Title, and only large draughts of stout could cure the vertigo and nausea occasioned by standing too long on the *terra infirma* of Springing and Shifting Uses.

Psychiatrists tell me that the same types of tormented minds that in centuries past might have seen apparitions of goblins or demons, in our more sophisticated age will tend to report bizarre electrical phenomena. So too, the *causes of* (if you're dry read: *excuses for*) alcoholism among lawyers have become more sophisticated. No longer the hoary doctrines of Common Law but the hairy enactments of the legislatures drive one to drink. More lawyers have been sent down the path to degradation by the Internal Revenue Code of

1954 than by bad marriages, and the Uniform Commercial Code, particularly Title 9, takes more toll in the profession than Alcoholics Anonymous can possibly hope to take care of, at least without Federal funding. And speaking of the U.C.C., I know of one lawyer who was so frustrated by the cumbersome requirements of the bulk sales law in the U.C.C. (as compared to our former workable statute) that he ultimately took to the bottle and left the profession. He later became a highly successful test pilot for Seagrams.

The situation is not improving, but is deteriorating. Recently I have managed to isolate in my laboratory (Lah-BORE-a-tree) two new agents that have come to the fore almost overnight, which produce a virulent and distinctive symptomology, and which threaten to make alcoholism of epidemic proportions in the Bar. I refer, of course, to the SEPA Guidelines and to the Tax Reform (sic) Act of 1976.

In closing, it's interesting to note that the terminology has changed too. Time was when a drinking lawyer on the morning after might say he had the "HEE-BIE-JEEBIES." Today he is more likely to describe his condition as the "WISHA-OSHAS" or the "EPA-SEPAS."

Pass the Johnnie Walker.

ED MCKINLAY

Pasco

Praise for Senator Francis

Editor:

Over the past few years, I have had several occasions to encounter fellow attorney State Senator Pete Francis, concerning

various aspects of his different roles with the State Legislature. On each occasion, I have come away with a strong feeling that all segments of the Bar and all segments of the citizens of this State are very fortunate to have a man of Pete's caliber serving us in Olympia.

E.H. KNAPP, JR.

Seattle

Tegland Clarifies April Article

Editor:

I am writing with reference to Mr. Gary Carpenter's letter appearing in the June, 1977 issue, in which Mr. Carpenter commented upon my article titled "Long-Arm Jurisdiction in Matrimonial Litigation," published in the April issue. Mr. Carpenter observed that the article seemed to overlook a 1977 amendment

to RCW 4.28.185 which solves many of the problems discussed in the article.

The article was printed on pages 42-44 but unfortunately appeared to end on page 43. At the top of page 44, I described the proposed statutory amendment and said that it had recently been signed into law by the Governor. The format in which the article was printed apparently caused many readers to miss the last four paragraphs.

The amendment, creating long-arm jurisdiction in actions brought under the Marriage Dissolution Act, was sponsored by the Washington Judicial Council. As an attorney for the Council, I was delighted to see the words of appreciation expressed in Mr. Carpenter's letter.

KARL B. TEGLAND

Seattle

□

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As an undefined constitutional minimum, the United States Supreme Court declared on June 27, 1977 in *Bates and O'Steen v. State Bar of Arizona* that lawyers may place "truthful" newspaper advertisements stating the *price* and availability of "routine legal services." The decision came in a 5-4 vote and four separate opinions. Reacting to this ruling at its July meeting, the Board of Governors (7-2) has voted to take a restrictive view of the opinion. *For a summary of the Bates opinion and details concerning the Board's action, see The Board's Work, Page 21.* The Court reserved — among others — the questions of whether lawyers may advertise the quality of their services or engage in personal solicitation.

The Court offered various statements concerning the bar's role in the regulation of lawyer advertising. In footnote 28, the Court stated: "The bar, however, retains the power to define the services that must be included in an advertised package, such as an uncontested divorce, thereby standardizing the 'product.' "

Similarly, the Court included these statements in its opinion:

"Although, of course, the bar retains the power to correct omissions that have the effect of presenting an inaccurate picture, the preferred remedy is more disclosure rather than less. If the naiveté of the public will cause advertising by lawyers to be misleading, then it is the bar's role to assure that the populace is sufficiently informed as to enable it to place advertising in its proper perspective."

And further, "in sum":

"We do not foreclose the possibility that some limited supplementation, by way of warning or disclaimer or the like, might be required of even an advertisement of the kind ruled on today so as to assure the consumer is not misled. In sum, we recognize that many of the problems in defining the boundary between deceptive and non-deceptive advertising remain to be resolved, and we expect that the bar will have a special role to play in assuring that advertising by attorneys flows both freely and cleanly."

The Board will be debating the meaning of these and other statements by the Court during the next several months and lawyer advertising undoubtedly will be a major topic of conversation at the Annual Meeting in Vancouver, B.C. next month. In the meantime, you may want to advise whether the advertisements suggested on this page flow "freely and cleanly."

JVW

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Next Week's Special: One cent sale on simple personal bankruptcies (Buy one for \$100 — Get two for \$100.01).

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The Legal Clinic



**Committees Study Bar Exam;
Solutions to High Minority Failure
Rate Recommended**

The two committees appointed to study, identify causes and recommend solutions for the high bar exam failure rate by minority students have now reported. One committee, chaired by G. Keith Grim, studied bar examination procedures and various recommendations by the Loren Miller Law Club and the Coalition for Justice in the Legal System. The other committee, chaired by Thomas S. Zilly, studied the Special Admissions program at the University of Washington Law School, the correlation between bar examination success on the one hand, and LSAT scores, predicted first-year law school grade averages (PFYA), cumulative law school three-year grade averages, scores on "core" (i.e., evidence, torts, contracts, etc.) law school subjects, etc., on the other hand. The two reports and their accompanying schedules and exhibits exceed 100 pages. More than 500 man hours went into these studies. The reports are thorough and the recommendations constructive. The U. of W. law faculty cooperated fully in the study.

Succinctly summarized, one or both of these committees conclude and recommend:

- (1) That we continue to require successful completion of the bar exam as a prerequisite to the practice of law, and reject the concept that all law school graduates be admitted on motion.
- (2) That a score of 126 continue to be the minimum passing grade. That requires an average grade of 7 points (out of a possible 10) per question.
- (3) That a racial and ethnic imbalance exists in the legal profession in this state. That deliberate steps to increase the number and quality of minority applicants for admission to the bar must be continued and strengthened.
- (4) That the bar exam should contain greater emphasis on personal law subjects (torts, criminal law, contract law, landlord-tenant, family law, etc.) more pertinent to the experience of minority students.



- (5) That applicants should be given longer than 40 minutes — on the average — to answer each bar exam question, on the theory that sound answers are more important than quick answers.
- (6) That the Law School's Special Admissions program should be strengthened by:
 - (a) increasing the minimum LSAT scores deemed acceptable for Special Admittees, thus establishing an admissions level that will predict success rather than failure. Since 1973 the Law School has already moved in this direction. The Zilly Committee found LSAT scores to be a reasonably accurate indicator of probable success in law school and on the bar exam.
 - (b) being more firm in dismissal decisions during law school.
 - (c) starting the program much earlier. The Bar Association and law school(s) should jointly sponsor a program to identify, counsel and recruit potential minority lawyers reaching back to the high school and early college years. That will give more time to improve analytical, language and writing skills.
 - (d) improving counselling and advising the applicant realistically of the risks

of failure inherent in the program and of the effort required to succeed.

- (e) requiring special admittees to take a 3-hour course in their first year of law school in analytic skills, language and writing skills and exam taking techniques.
- (f) requiring attendance at a tutorial program after the first year for all students with grades below an acceptable level.
- (g) increasing the "feedback" to students on their law school performance.
- (h) increasing financial aid to minority students (including a substantial commitment from the Bar Association).
- (i) encouraging law firms and legal agencies to employ and supervise minority law students, on the theory that practical training aids self-confidence and makes the academic training more relevant.

These recommendations will be considered by the Board of Governors at its August meeting, which will have taken place before this issue of the *Bar News* reaches your desk. We are all deter-

mined to maintain the standards of the profession and the integrity of the bar exam. You can rest assured on those counts. The proposals to strengthen the Special Admissions program will require effort and sacrifice on the part of all concerned. This we can and must do without lowering our standards of admission. While we are acting on these proposals, we will be aware of the Supreme Court's expected decision this fall on the reverse discrimination case out of California in *Bakke v. Regents of the University of California*, 553 P.(2d) 1152 (1976), U.S. Supreme Court Docket No. 76-811.



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Trust Accounts — Part III

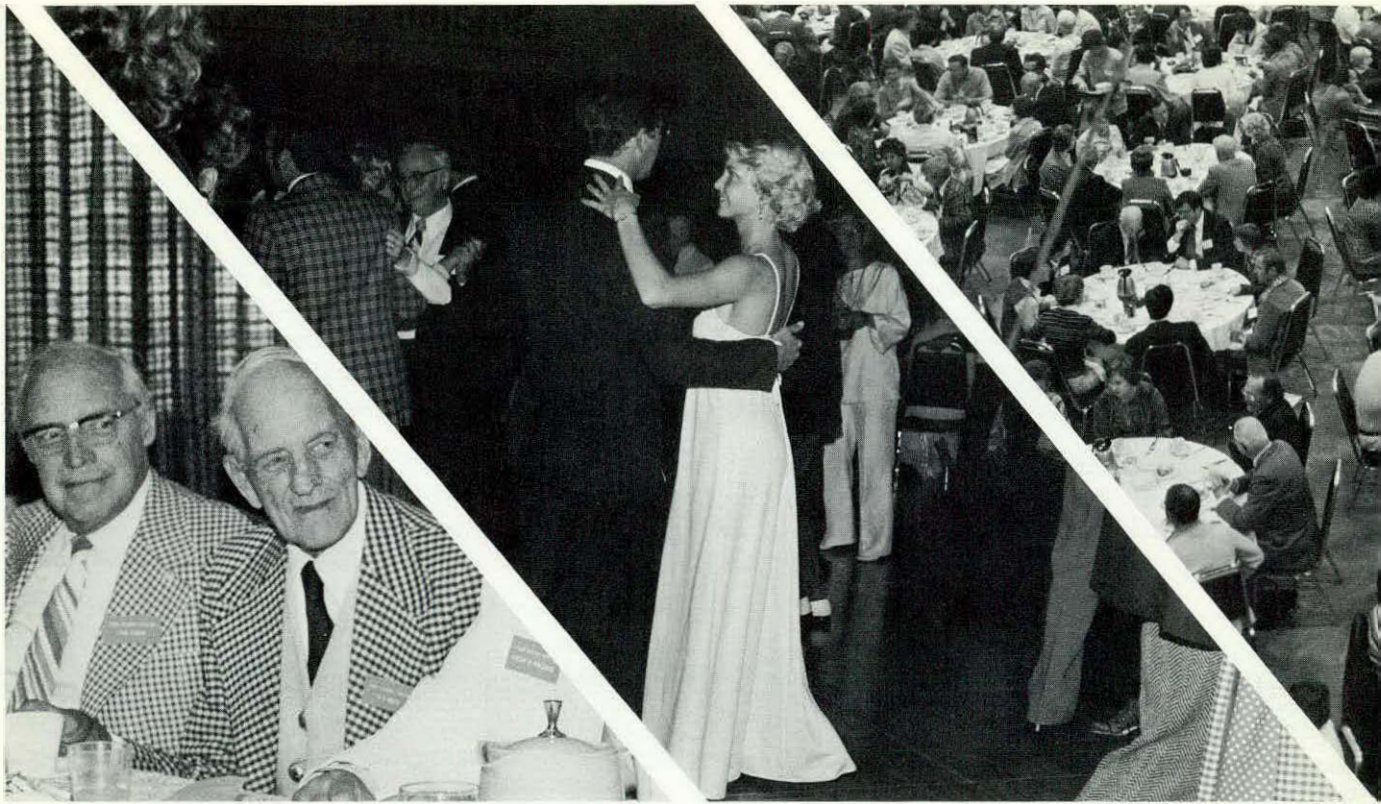
KURT M. BULMER
General Counsel, WSBA

The vast majority of attorneys actively seek to comply with the various trust account rules. Out of eight thousand attorneys probably less than one percent are illegally or intentionally misusing their trust funds at any one time. However, the percentage that are unintentionally misusing those funds is clearly much higher. (This statement is based upon the number and type of questions received by the State Bar Office dealing with trust accounts). Much of this unintentional misuse is occurring because of a lack of understanding by many lawyers of the basic concepts behind a properly functioning trust account system. The following is, therefore, provided as a rudimentary check list of the operation of a basic trust account system; it is not intended as a substitute for consultation with an accountant nor is it a comprehensive coverage of trust account mechanics. You should, however, be sure that your system includes, at least, the following and that you can answer yes to all of the following questions:

1. Do you have a trust account?
2. If for some reason you were required to make a distribution of all client's funds could you meet all obligations with funds on hand *in the trust account* without making any additional deposits or transfers?
3. Is your trust account an identifiable bank account, labeled as such and used for no other purpose except to hold client's funds?
4. Do you or another attorney member of your firm review and sign all trust account withdrawals?
5. Do you have an accounting system which records and apportions all trust account withdrawals and deposits and which system is not merely a cross-checking system of comparing file notes, deposits slips and check stubs?
6. Do you balance your trust account upon receipt of the bank statements?

7. Do you withdraw all earned fees from the trust account immediately, by check made out to you, and avoid using fees in the trust account as a personal "reserve" or "emergency" fund?
8. Can you say that you *never* use your trust account for any personal, business or other matter except to disburse funds to clients or pursuant to a client's direction?
9. Are your trust account checks made out so as to show what the payment is for and on which client's behalf it was drawn?
10. If your trust account earns interest do you apportion the earnings to various clients and attend to the appropriate tax filings?
11. If you are in a firm and are not responsible for the trust account are you personally acquainted with your firm's trust account practices including knowing who writes checks and how reviews and confirmations of trust account balances occur?
12. Do you distinguish between "actual retainers" and "client deposits," and treat the funds accordingly? (See last month's column).
13. When viewed as a whole does your book-keeping system leave a simple but sufficient "paper trail" which allows for easy tracking of all funds coming into your possession?

If you cannot answer yes to all of the above questions then you should take steps to make arrangements so that you can. This is not to say that the above questions set forth the requirements of trust accounts but if you cannot answer yes to these questions then there is a good chance that you are not meeting the technical and ethical responsibilities placed upon you as an attorney. It cannot be forgotten that an attorney is personally responsible for a client's funds and if some other person in the firm or an employee is misusing the funds the ethical responsibility still remains upon the original attorney. Attorneys must take specific precautions to assure themselves that their client's funds are protected and should personally verify that funds are being properly handled. □



HIGHLIGHTS

A Preview of the 1977 Annual Meeting in Vancouver B.C. September 14-17

If you're interested in relations between the press and the legal profession, you'll not want to miss a gentleman involved with both at the upcoming Washington State Bar Association Annual Meeting in September.

The Annual Meeting site? The Hyatt Regency

Hotel and Hotel Vancouver in scenic Vancouver, B.C.

The man? Peabody Award-winning NBC News correspondent **Carl Stern**, a lawyer whose assignment is coverage of the courts in Washington, D.C. Stern will address the general Thursday



Luncheon at our meeting . . . And that's just one event in a four-day program packed with informative, profitable and entertaining sessions.

Stern has been admitted to the practice of law in the District of Columbia and Ohio and the Supreme Court of the United States. In 1967 he was assigned by NBC News to cover the U.S. Supreme Court, the Federal judiciary, and the quasi-judicial proceedings of the Federal agencies.

Since that time he has probably covered more trials and hearings than any other broadcast reporter. These have included Watergate, the Berrigan case and the trials of Sam Sheppard, James Hoffa, Muhammad Ali, Clay Shaw, Arthur Bremer, and Patricia Hearst.

Stern has put his legal training to work; in 1973 he won a landmark Freedom of Information Act lawsuit requiring the F.B.I. to disclose operation of a program to disrupt New Left political organizations. Attorney General William Saxbe described the program as "clearly illegal." In 1974 Stern was nominated for two Emmys by the National Academy of Television Arts and Sciences, one as broadcaster of the year, the other for outstanding coverage of Watergate.

That same year, he won the most coveted award in broadcast journalism — The George

Foster Peabody Award — for "exceptional journalistic enterprise." He received the American Bar Association's Gavel Award in 1969 and again in 1974.

In 1967 and 1968, in addition to his court assignment, Stern covered the White House as NBC News' number two man — behind White House correspondent Ray Scherer — and he accompanied President Lyndon B. Johnson on his Asian and Central American trips.

Stern was graduated from Columbia College in 1958 with a B.A. degree in public law and government and received his Master's degree from Columbia University Graduate School of Journalism the next year. In 1966 he earned a Doctor of Jurisprudence degree, magna cum laude, from Cleveland State University.

Be sure to hear this insider discuss his work at the Supreme Court and the Justice Department at our Annual Meeting.

Judge Joseph Sorrentino of Los Angeles will be the featured Wednesday Luncheon speaker at our meeting. He is a man you will not soon forget.

Joe Sorrentino, the son of a street sweeper, grew up in a tough section of Brooklyn and became a gangleader. By age 20, he had failed out of high school, floundered through 30 dead-

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end jobs, fouled up enough in the Marine Corps to be thrown out with a bad conduct discharge, had served time in a New York reformatory, in the Raymond Street Jail, in a Marine brig, and in the Parris Island padded cell for incorrigibles. He had seen his best friend murdered by the Mafia and had seen other friends drown in heroin and die in prison.

He changed the course of his life on his own volition, enrolled in and then graduated from night high school, graduated from the University of California magna cum laude and as president of the student body, re-enrolled in the Marines to clear his record, and was then Valedictorian of his Harvard Law School graduating class.

He is a stirring speaker who has appeared before more than ¾ million people. *Time* magazine featured an essay on his life, *McCall's* says he is the most in-demand speaker in America, *Forbes Magazine* agrees, and Art Buchwald says he could be the next governor of California. He is an award winning author, an award winning professor, an award winning attorney, and a frequently published journalist. He has often been a guest on the Johnny Carson, Mike Douglas and Dinah Shore shows and was recently featured on the CBS show *60 Minutes*.

Treat yourself to a session with a person of rare determination and inspiration at the Wednesday Luncheon.

The speaker for the Friday Luncheon is **Al McGuire**, Coach of the NCAA Championship-winning Marquette Squires. Eccentric, controversial, philosophical, candid and witty — a family man, a motor bike enthusiast, an antique buff, a business man, an entertainer — and a person worth listening to.

McGuire's coaching career at Marquette began in 1964. Over his 13 seasons there, he led the Squires to 295 victories and only 80 losses. He brought eleven straight years of post season play to the school, including one NIT Championship in 1970, an NCAA second place spot in 1974, and the big one, the 1977 NCAA Title.

Twice selected as the Coach of the Year, McGuire refers to the one award from the National Association of Basketball Coaches as, "the most important in my career."

Now active in business, he is Vice-Chairman of the Board of Directors of Medalist Industries, Inc. His appearances as a colorful speaker have taken him throughout the United States, Europe, Asia and New Zealand.

You'll enjoy this man of wit, style and athletic wizardry at the Annual Meeting Friday Luncheon.

Those are a few headliners, but they are only the beginning! The 1977 Annual Meeting will feature a number of hard-hitting seminars designed to help your practice and your firm. More than twenty Continuing Legal Education sessions will be presented representing nearly all WSBA sections. To help Bar members attend various seminars which are given at conflicting times, many will be repeated during the convention. (See the complete seminar schedule in this issue.)

Action for spouses? We have it! Example: **Marilyn Van Derbur** will speak Thursday afternoon. Ms. Van Derbur was named "Outstanding Woman Speaker in America" recently in a survey sent out to 30,000 corporate and civic meeting planners.

She graduated from the University of Colorado with Phi Beta Kappa honors, has been the hostess of 23 network television specials on CBS and NBC, is an avid sportswoman and has competed in national AAU swimming meets, broken and trained her own horses, and competitively raced for the University of Colorado ski team. She was selected Miss America, is a former member of the President's Advisory Council on Adult Education, and during the past twelve years has spoken to thousands of business and educational groups . . . from Bangkok to Brussels . . . from IBM to Kodak . . . and from the European Council of Schools to Sales and Marketing Executives International. She is presently the only woman who is a regular guest lecturer and consultant for General Motors.

She is the wife of a prominent Denver attorney, the mother of a five year old daughter who often travels with her, and a dynamic lecturer.

The Bar Association is pleased and honored to bring this outstanding woman to the Annual Meeting for the Spouses Seminar. Her topics will include personal motivation, youth problems and pleasures, and related areas of current interest.

On Friday morning at 10:00 a.m. we will present **Diane Oberquell**, the Chairwoman of the State Board of Prison Terms and Paroles. Mrs. Oberquell is a woman of charm and accomplishment and will have a message of great interest for her audience.

Also on Friday morning, we will have demonstrations of gourmet microwave cooking, with emphasis on cooking for entertaining. There will be demonstrations of both techniques and equipment, highlighted by tastings of the samples produced.

New this year . . . For the first time, the State Bar will sponsor golf and tennis tournaments and a jogging event at the Annual Meeting.

If golf is your thing, be sure to register for the **State Bar Grand Challenge Open Golf Tournament**, to be held Thursday, September 15. A variety of prizes will be given in several classes. Tennis buffs will enjoy the **Jimmy-I'm-Not-But-I'll-Give-All-I've-Got** Tennis Tournament, to be played on Wednesday, Thursday and Friday, September 14, 15, and 16. Entrants will be matched according to ability. If you're a jogger, you will enjoy the **What-Am-I-Doing-Out-Here Six Mile Run** around the seawall promenade of Stanley Park on Thursday, September 15. Many prizes will be given for speed (or lack of it) and distance, in both male and female categories.

Full details for these events will be given out at the Annual Meeting registration desk.

The Annual Meeting social schedule is packed with reunions, breakfasts, hospitality suites, and many other events. And the grand finale, as always, will be the fabulous Friday Nite Gala Dinner, Dance and Show, this year featuring the world famous **Danny Davis and the Nashville Brass**, direct from The Sands in Las Vegas.

We look forward to seeing you all in Vancouver. You'll experience four days of professional growth, with a liberal serving of social times and entertainment along the way. Don't miss it!

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

Like every big city in the world, Vancouver is a hundred different things to a hundred different people . . . Outdoors headquarters for skiing and sailing enthusiasts, business mecca for stock-brokers and bankers, port town for cruise passengers, big and beautiful city for travelers from smaller towns.

But one description always fits Vancouver: the Host City. Every year — spring, summer, fall and winter — visitors flock to Vancouver to see what the city has to offer. Some come by themselves . . . Others are part of conventions like our own Annual Meeting.

While you're there, be sure to set aside some time to do your own exploring in this inviting metropolis. For information on the city's attractions and how to get there, start at the Greater Vancouver Convention and Visitors Bureau, at 650 Burrard Street, across from the main entrance of the Hyatt Regency, our Annual Meeting headquarters hotel.

There are scores of things to see and do within easy reach of the Hyatt Regency. Here are just a few you'll enjoy, especially if spouse and family are with you . . .

THE HARBOR It's magnificent. Even jaded Puget Sounders will be impressed. The best time to view it is just before sunset. It's within walking distance of the Hyatt Regency; just stroll north a few blocks. Promenades of some of the more modern office buildings on the waterfront place you almost directly over the water. That view, at

that time of day in September, is worth a trip to Vancouver. For a different perspective, take the circle drive around Stanley Park. There are a dozen harbor viewpoints, and plenty of places to park. Or, you may want to take one of the harbor cruises to get a closer look at shipping and waterfront activity.

THE PARK Vancouver, you will discover, abounds in parks. The most spectacular, of course, is the world-famous Stanley Park, a 1,000 acre splash of green, both tamed and wild, five minutes from the heart of downtown. If you don't have the chance to see anything else, take the drive around Stanley Park. Encircled by a seven mile seawall for driving, hiking, biking or just plain ocean watching, it has within its boundaries wilderness trails, formal gardens, vast expanses of green clipped lawns, beaches and a zoo. The internationally famed Vancouver Aquarium, with its killer whale and dolphins, is located there, too.

MUSEUMS History fanciers have the memorabilia of a myriad of subjects to choose from in various locations throughout the city. You can view the wooden vessel *St. Roch*, which sailed the Northwest Passage in the forties, and other marine artifacts at the Maritime Museum; or see the origins of this area visually explained at the Centennial Museum (housed in the same building as the highly ranked H. R. MacMillan Planetarium); or visit Heritage Village, a five acre recreation of nearby Burnaby at the turn of the century, with a General Store and Ice Cream Parlor and costumed clerks; or the new Museum of Anthropology, which houses an extensive collection of B.C. Coastal Art and Artifacts.

VANCOUVER

One of the World's Great Convention Cities



An up-to-date
will is the nicest
thing you can
leave your
heirs.

PeoplesBank
Trust Division

Our
customers
know
where
we
stand.

THE UNIVERSITIES If you need reason to venture into other parts of the city, here are two: the University of British Columbia and Simon Fraser University. The former has 24,000 students, the latter 15,000. The UBC campus is located in southwest Vancouver on the tip of Point Grey peninsula, overlooking the Strait of Georgia. Simon Fraser sits east of the city center on top of Burnaby Mountain, overlooking the city. Massive, striking facilities; choice views. *VANCOUVER ART GALLERY* It's just three blocks from the Hyatt Regency, it's big, and it's free. Aside from the expected, periodically changed displays, you'll see the world's largest collection of Emily Carr paintings.

THE ROYAL HUDSON Any closet railroaders among our members? The Royal Hudson offers a train ride you won't forget. This showcase steam train takes a six-hour trip each day from North Vancouver to Squamish and returns along the rugged, rocky banks of Howe Sound. You'll have plenty of time to look over the steam locomotive and passenger cars during your lunch stop in Squamish.

GASTOWN (Shades of Pioneer Square!) Gastown, where Vancouver began, is a creative example of urban renewal that has attracted national attention. It is also a visual delight, with cobblestoned streets and numbers of unique shops and specialty restaurants. Take a self-guided tour of this area, and don't miss nearby Chinatown, second largest Chinese community on the continent.

RESTAURANTS Thought we were going to give you all the inside lowdown, right here, didn't you? Here's a better idea: when thoughts turn to the tum-tum, turn to Brewster's Guide elsewhere in this issue. You'll read about the latest and best of Vancouver's offerings, and you may be certain they have all been properly tested by U.S.A. taste buds. Enjoy!

OTHERS We've only scratched the surface with the above suggestions, of course, but here are some additional things to see and do if your list runs out . . .

Lion's Gate Bridge (. . . across the harbor entrance, probably the only major suspension bridge in North America built by private funds, to

MEMORANDUM

TO: Registrants of the Washington State Bar Association
1977 Annual Meeting, Vancouver, B.C.

FROM: Washington State Bar Association

SUBJECT: The Tax Reform Act of 1976

Three major limitations on deductions for attending foreign conventions are imposed by the new §274(h) of the Internal Revenue Code:

1. No individual taxpayer may deduct the expenses incurred in attending more than two foreign conventions in the tax year.
2. Deductible transportation expenses are limited to the cost of coach or economy fare. The deduction is allowed only if more than one-half of the days of the trip are devoted to business activities.
3. Subsistence expenses are not deductible unless the taxpayer attends two-thirds of the scheduled business activities in a

given day. A further restriction is imposed by §274(h) (5) which limits the amount of deductible subsistence expense to the per diem rate established by 5 U.S.C. 5702(a). The per diem rate established for Vancouver appears to be \$58.00.

The taxpayer is required by §274(h) (7) to attach to his tax return a written statement, signed by the taxpayer, which includes: the total days of the trip, the number of hours per day devoted to scheduled business activity and a program of the scheduled business activity. Along with the taxpayer's statement, a similar written statement signed by an officer of the sponsoring organization must be attached to the tax return.

In order to facilitate compliance with the requirements of the Act, Convention attendees will be provided with a form which contains the necessary information. It is believed that this form meets the requirements of the Act.

attract prospective property buyers to the north shore).

B.C. Properties (. . . on the north shore slopes, large attractive homes, new and old, with a FANTASTIC view of the entire city).

Capilano Suspension Bridge (. . . also on the north shore, 250 ft. above a rocky mountain stream, guaranteed to make you seasick).

Grouse Mountain Lodge (. . . again on the north shore, reached only by alpine cable car, good for evening dining with a mountain-top view of the city).

Queen Elizabeth Park (. . . south of city center, massive, formal English-style gardens, the kind you don't see much of south of the border).

Be sure you check the currency exchange rate when you buy something with U.S. funds — you may save money. Remember that gasoline prices are higher than in Washington State in part because the imperial gallon measure is used — 20% larger than our own.

You'll find that Canadians work at being good hosts. Ready? Have a good time! □



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All you need to know about Professional Liability insurance.

A program of professional liability insurance for Washington attorneys, underwritten by the American Bankers Insurance Company

of Florida, is available through three authorized brokerage firms. One of them is Alexander & Alexander.

Professional liability insurance is a highly specialized form of coverage, usually hard to get and often costly. But since Alexander & Alexander is the oldest and largest brokerage firm in the nation with expertise in this important coverage, we can make it easier for you to get the protection you need.

Is there anything else you need to know?

**Alexander
& Alexander**

For further information, call or write Harrison P. Sargent, C.P.C.U., Alexander & Alexander, Inc.; IBM Building, Seattle, WA, 98101; Telephone: (206) 623-7070.

Our Professional Liability Plan has received the endorsement of the state bar associations in New York, Virginia, Ohio, Texas, Wisconsin, Mississippi, Utah, District of Columbia, Montana, Nebraska, Pennsylvania, West Virginia and others.

WASHINGTON STATE BAR NEWS

7-2 Vote

BOARD ADOPTS RESTRICTIVE PHILOSOPHY ON REGULATION OF LAWYER ADVERTISING

By JAY V. WHITE

ROSARIO, ORCAS ISLAND, July 15-16 — The Board of Governors (7-2) has voted to adopt the philosophy that advertising by lawyers in this state should be restricted as much as is constitutionally permissible.

The Board's action is its first substantive reaction to the holding of the United States Supreme Court (5-4) in *Bates and O'Steen v. State Bar of Arizona* (No. 76-316, June 27, 1977) that truthful newspaper advertising by lawyers concerning the terms and availability of routine legal services is protected by the First Amendment. *For editorial comment, see Editor's Page.*

President Richard H. Riddell appointed Board Members Betty B. Fletcher (chairperson), Paul R. Cressman and Willard H. Walker to act as a subcommittee to recommend rules to the Board governing lawyer advertising. Rules approved by the Board will be forwarded to the state Supreme Court.

The committee was instructed to confer with the chairperson of the Board of Specialization and to present either a progress report or final recommendations at the Board's next meeting scheduled August 18-20.

The Board 2-7 rejected a motion that regulations and guidelines be recommended to the state

Supreme Court which would prohibit any self-designation of specialties by members of the bar.

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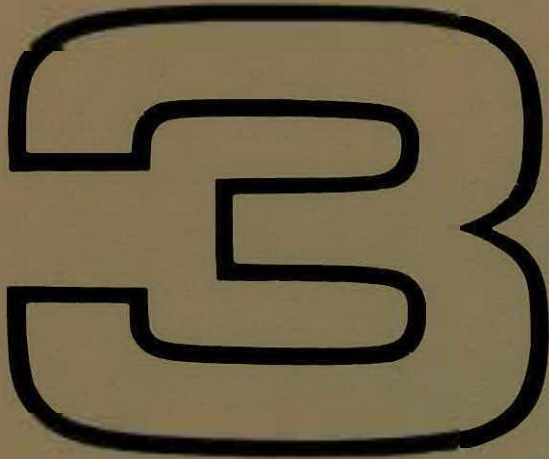
- Divorce or legal separation—uncontested (both spouses sign papers)
\$175.00 plus \$20.00 court filing fee
- Preparation of all court papers and instructions on how to do your own simple uncontested divorce
\$100.00
- Adoption—uncontested severance proceeding
\$225.00 plus approximately \$10.00 publication costs
- Bankruptcy—non-business, no contested proceedings
Individual
\$250.00 plus \$55.00 court filing fee
Wife and Husband
\$300.00 plus \$110.00 court filing fee
- Change of Name
\$95.00 plus \$20.00 court filing fee

Information regarding other types of cases
furnished on request

Legal Clinic of Bates & O'Steen

817 North 3rd Street
Phoenix, Arizona 85004
Telephone (602) 592-8888

Lawyer advertisement approved by United States Supreme Court in *Bates and O'Steen v. State Bar of Arizona*, decided June 27, 1977.



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The Board's agenda included a wide range of other items noted briefly below.

Meeting with the Board was President-designate Edward J. Novack of Everett who takes office at the Annual Meeting in Vancouver, B.C., September 14-17.

Background:

The Bates and O'Steen Opinion

On February 22, 1976, John R. Bates and Van O'Steen, members of the Arizona bar, placed an advertisement in the *Arizona Republic*, a Phoenix daily newspaper, listing their fees for certain services available at their "legal clinic." See page 21. This advertisement, conceded by Bates and O'Steen to be a violation of DR 2-101(B), resulted in a complaint by the president of the Arizona Bar Association and the recommendation in turn by a local administrative committee that the two attorneys be suspended from practice for six months. The Arizona Board of Governors recommended a one-week suspension for each, the weeks to run consecutively, and this sanction was imposed by the five-member Arizona State Supreme Court which filed a two-Justice plurality opinion, a concurring opinion and two dissenting opinions. *Matter of Bates*, 113 Ariz. 394, 555 P. 2d 640 (1976).

The United States Supreme Court considered two challenges to DR 2-101(B) brought by Bates and O'Steen: (1) the rule violates sections 1 and 2 of the Sherman Act because of its tendency to limit competition; and (2) the rule infringes a lawyer's First Amendment rights. All nine justices agreed that the Sherman Act argument is without merit because DR 2-101(B) may be viewed as exempt state action to regulate the legal profession.

The Court's basic 5-4 split involved the First Amendment issue and was articulated in four separate opinions.

Mr. Justice Blackman, joined by Brennan, White, Marshall and Stevens, wrote the majority opinion. The thrust of the Court's opinion is that "commercial speech" such as that engaged in by Bates and O'Steen is entitled to First Amendment protection. The Court stated that its conclusion that DR 2-101(B) violates the First Amendment flows "a fortiori" from the holding in *Virginia*

Pharmacy Board v. Virginia Consumer Council, 425 U.S. 748, L.Ed. 2d (1976) that the advertisement by a pharmacist, characterized by the Court as "I will sell you the X prescription drug at Y price," may not be proscribed because "such speech serves individual and societal interests in assuring informed and reliable decisionmaking."

In applying the *Virginia Pharmacy Board* holding in *Bates*, the Court stressed that the narrow issue before it was "whether lawyers also may constitutionally advertise the prices at which certain routine services will be performed." The Court specifically reserved the questions of whether lawyers constitutionally may be prohibited from advertising the quality of their services or soliciting clients in person.

The Court rejected six identifiable arguments raised in support of DR 2-101(B):

1. *The Adverse Effect on Professionalism*: "Bankers and engineers advertise, and yet these professions are not regarded as undignified. In fact it has been suggested that the failure of lawyers to advertise creates public disillusionment with the profession." "Indeed, cynicism with regard to the profession may be created by the fact that it long has publicly eschewed advertising, while condoning the actions of the attorney who structures his social or civic associations so as to provide contacts with potential clients." "Since the belief that lawyers are somehow 'above' trade has become an anachronism, the historical foundation for the advertising restraint has crumbled."

2. *The Inherently Misleading Nature of Attorney Advertising*: "Although many services performed by attorneys are indeed unique, it is doubtful that any attorney would or could advertise fixed prices for services of that type. The only services that lend themselves to advertising are the routine ones: the uncontested divorce, the simple adoption, the uncontested personal bankruptcy, the change of name, and the like. . . . Although the precise service demanded in each task may vary slightly, and although legal services are not fungible, these facts do not make advertising misleading so long as the attorney does the necessary work at the advertised price." "If the naiveté of the public will cause advertising by attorneys to be misleading, then it is the bar's role to assure that the populace is suf-

ficiently informed as to enable it to place advertising in its proper perspective."

3. *The Adverse Effect on the Administration of Justice*: "Although advertising might increase the use of the judicial machinery, we cannot accept the notion that it is always better for a person to suffer a wrong silently than to redress it by legal action."

4. *The Undesirable Economic Effects of Advertising*: "It is entirely possible that advertising will serve to reduce, not advance, the cost of legal services to the consumer." "In the absence of advertising, an attorney must rely on his contacts with the community to generate a flow of business. In view of the time necessary to develop such contacts, the ban in fact serves to perpetuate the market position of established attorneys."

5. *The Adverse Effect on the Quality of Service*: Restraints on advertising, however, are an ineffective way of deterring shoddy work. An attorney who is inclined to cut quality will do so regardless of the rule on advertising." "Even if advertising leads to the creation of 'legal clinics' like that of appellants' — clinics that emphasize standardised procedures for routine problems —



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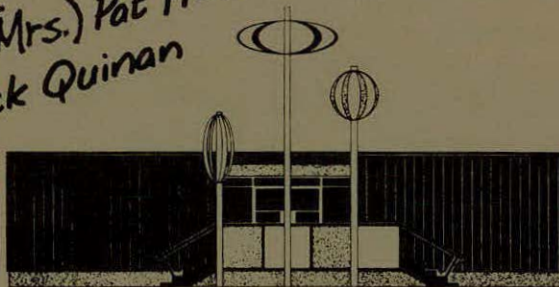
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it is possible that such clinics will improve service by reducing the likelihood of error."

6. *The Difficulties of Enforcement*: "It is at least somewhat incongruous for the opponents of advertising to extol the virtues and altruism of the legal profession at one point, and, at another, to assert that its members will seize the opportunity to mislead and distort." "For every attorney who overreaches through advertising, there will be thousands of others who will be candid and honest and straightforward. And, of course, it will be in the latter's interest, as in other cases of misconduct at the bar, to assist in weeding out those few who abuse their trust."

* * *

The Court next held that the First Amendment overbreadth doctrine is not applicable to test the regulation of advertising. Thus, one making an attack on the constitutionality of a professional advertising regulation must demonstrate that "his specific conduct was protected." The challenge will fail if it is shown merely that the regulation is "overbroad" and may prohibit protected conduct other than that of the challenger. The Court explained that the purpose of the "overbreadth doctrine" is to prevent a "chilling effect" upon protected speech: "Since advertising is linked to commercial well-being, it seems unlikely that such speech is particularly susceptible to being crushed by overbroad regulation." The Court concluded that Bates and O'Steen had carried the burden of showing that their advertisement was protected.

Finally, the Court noted that its opinion is addressed to "blanket suppression" of advertising and that there are "clearly permissible limitations of advertising not foreclosed by our holding." Limitations mentioned by the court include:

- Strict regulation of false, deceptive or misleading advertising. The court noted that advertising claims as to the quality of service, or in-person solicitation, are matters "not susceptible to measurement or verification" and therefore "may be so likely to be misleading as to warrant restriction."

- "We do not foreclose the possibility that some limited supplementation, by way of warning or disclaimer or the like, might be required of even an advertisement of the kind ruled upon

today so as to assure that the consumer is not misled."

- There may be "reasonable restrictions on the time, place, and manner of advertising."

- "Advertising concerning transactions that are themselves illegal obviously may be suppressed."

- The "special problems of advertising on the electronic broadcast media will warrant special consideration." In this connection, the Court cited *Capital Broadcasting Co. v. Mitchell*, 333 F. Supp. 582 (D.C. 1971) which upheld a provision of the Public Health Cigarette Smoking Act of 1969 declaring it "unlawful to advertise cigarettes on any media of electronic communication subject to the jurisdiction of the Federal Communications Commission."

- "In sum, we recognize that many of the problems in defining the boundary between deceptive and nondeceptive advertising remain to be resolved, and we expect the bar will have a special role to play in assuring that advertising by attorneys flows both freely and cleanly."

Concurring and Dissenting Opinions

Here are brief excerpts from the three separate opinions filed by the Court's minority:

Mr. Justice Powell (joined by Stewart), concurring in part and dissenting in part: "Although the Court appears to note some reservations . . . , it is clear that within undefined limits today's decision will effect profound changes in the practice of law, viewed for centuries as a learned profession. The supervisory power of the courts over members of the bar, as officers of the courts, and the authority of the respective States to oversee the regulation of the profession have been weakened. Although the Court's opinion professes to be framed narrowly, and its reach is subject to future clarification, the holding is explicit and expansive with respect to the advertising of undefined 'routine legal services.'" In my view, this result is neither required by the First Amendment, nor in the public interest."

With regard to the holding in *Virginia Pharmacy Board* relied upon by the majority: "But we were careful to note that we were dealing in that case with price advertising of a *standardized product*. The Court specifically reserved judgment as to the constitutionality of state regulation

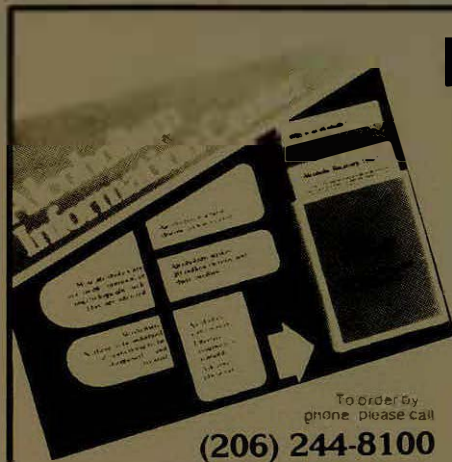
of price advertising with respect to *professional services*. . . . This case presents the issue so reserved, and the Court resolves it on the assumption that what it calls 'routine' legal services are essentially no different for purposes of First Amendment analysis from prepackaged prescription drugs. In so holding, the Court fails to give appropriate weight to the two fundamental ways in which the advertising of professional services differs from that of tangible products: the vastly increased potential for deception and the enhanced difficulty of effective regulation in the public interest."

On permissible price advertising: "The Court observes, and I agree, that there is nothing inherently misleading in the advertisement of the cost of initial consultation. Indeed, I would not limit the fee information to initial conference. . . . Lawyers operate, at least for the purpose of internal control and accounting, on the basis of specified hourly rates. . . . Where the price content of the advertisement is limited to the finite item of rate per hour devoted to the client's problem, the likelihood of deceiving or misleading is considerably less than when specific services are advertised at

a fixed price."

Mr. Chief Justice Burger, concurring in part and dissenting in part: "The Court's opinion [rests] on the unsupported assumptions that attorneys will not advertise anything but 'routine' services — which the Court totally fails to identify or define — or, if they do advertise, that the bar and the courts will be able to protect the public from those few practitioners who abuse their trust. The former notion is highly speculative and, of course, does nothing to solve the problems that this decision will create; as to the latter, the existing administrative machinery of both the profession and the courts has proved wholly inadequate to police the profession effectively."

Mr. Justice Rehnquist, dissenting in part: "I continue to believe that the First Amendment speech provision, long regarded by this Court as a sanctuary for expressions of public importance or intellectual interest, is demeaned by invocation to protect advertisements of goods and services. I would hold quite simply that the appellants' advertisement, however truthful or reasonable it may be, is not the sort of expression that the Amendment was adopted to protect."



New Alcoholism Information Center available without charge for your reception area . . .

Table-top display offers three factual leaflets about this destructive disease, written in laymen's terms.

10% of your clients who drink are victims of alcoholism. Many more are affected by the illness of a family member.

Sharing the facts about alcoholism may help.

- Accredited by Joint Commission on Accreditation of Hospitals
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To order, mail to: Schick's Shadel Hospital
P.O. Box 46421, Seattle 98146

Please send me the "Alcoholism Information Center" display and a supply of leaflets

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ADDRESS _____

CITY _____ STATE _____ ZIP _____

Please include my copy of "I don't want to talk about it."

Schick's Shadel Hospital

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Seattle, Washington 98146
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Board Debate and Action

Following his appointment of the committee chaired by Board Member Fletcher to make recommendations to the Board concerning the regulation of lawyer advertising, President Riddell opened the floor for a general discussion of the majority and minority opinions in *Bates*. At the Board's request, P. Cameron De Vore of Seattle — who was meeting with the Board to discuss another matter on the agenda — offered his interpretation of the *Bates* opinion, namely, that it invites regulation of lawyer advertising by the bar association.

During the course of the discussion, Board Member Robert R. Redman suggested as a matter of direction to the newly formed "Fletcher Committee" that there were two approaches open in light of the *Bates* opinion: either say that the Supreme Court has "opened the door to lawyer advertising and publish guidelines leaving it to the bar to determine what conduct is permissible, or sing the whole song, indicating what lawyers shall or shall not do." Redman stated that he preferred the latter approach: "Otherwise, the Disciplinary Board will become embroiled in interpreting guidelines."

President Riddell said that the *Bates* opinion indicates, "two specifics as 'shalt nots'; the advertising of the quality of legal services, and in-person solicitation."

Board Member David D. Hoff noted that the *Bates* opinion is "limited to routine legal services."

"What is a 'routine legal service'?" Board Member Michael J. Hemovich inquired.

Board Member Willard Walker stated that although he has always been opposed to advertising in any form, he believes that after *Bates*, even in-person solicitation may be protected by the First Amendment. Walker suggested that the Board announce a single rule: "Thou shalt not advertise deceptively."

Walker added: "After this opinion, your professionalism is gone; you're a businessman. You're selling shoes."

President Riddell suggested the Board take a philosophical position, "either a restrictive or broad view of lawyer advertising."

Redman, seconded by Hemovich, moved for adoption of a restrictive view.

Hoff moved to table the matter until "after the Fletcher Committee reports next month." There was no second.

Thereafter the Board voted 7-2 (Walker and Hoff opposed) to adopt the philosophy that lawyer advertising should be limited as much as possible in light of the *Bates* opinion.

Debate ensued as to whether or not the *Bates* opinion means that lawyers may not be prohibited from self-designating specialties. It was pointed out that if self-designation may not be proscribed, then there would be little purpose served by creating a bar-certified specialty program because the public would find it difficult to make any distinction between the two "types" of specialties.

Hemovich, seconded by Redman, moved that the Board recommend to the state Supreme Court regulations prohibiting self-designation. This motion failed, 2-7.

Hoff moved that the Fletcher Committee be instructed to make recommendations in the area of self-designated specialties in consultation with the chairperson of the Board of Specialization. The motion was seconded and passed 8-1, with Board Member Charles R. Olson opposed.

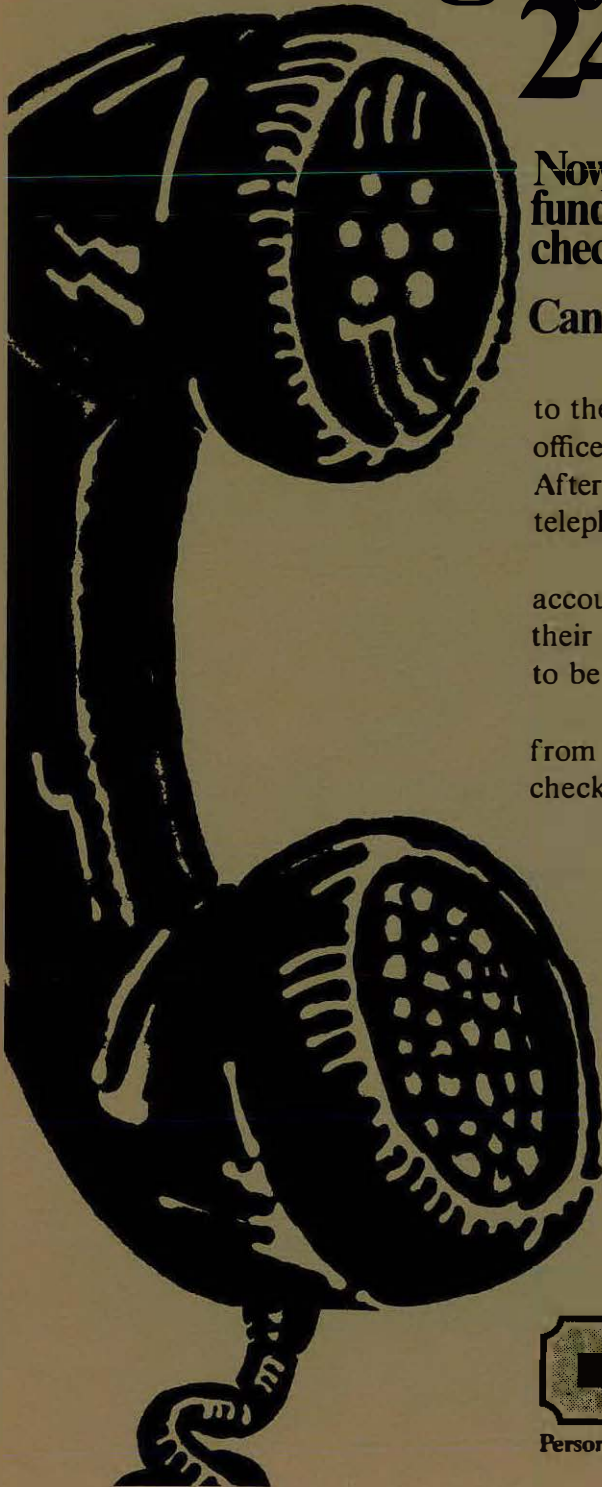
Malpractice Questionnaire

Board Member Redman, as chairman of the Attorneys Professional Insurance Committee, reported on that committee's work in preparation of a questionnaire to seek claims information related to malpractice insurance. Thereafter, the Board voted to submit the questionnaire to the membership pending final revision and preparation of a cover letter. The Board voted to request the state Supreme Court for an order requiring all members of the bar to respond to the questionnaire.

Revision of Corporation Code

P. Cameron De Vore met with the Board to describe "housekeeping" amendments to RCW 23A, the Washington Business Corporation Act, recommended by the Corporation, Business and Banking Session. The Board voted to approve in principle the proposed revision and indicated that it would support the amendments in the legislature subject to future review when the final draft has been prepared. De Vore indicated that more

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substantive amendments would be proposed in the future.

ABA Law Student Division

Shawn McGovern, a second year law student at Gonzaga Law School and Regional Governor of the ABA Law Student Division, appeared to propose that the Board approve ex-officio membership status for an LSD representative on either the Board or on the Board of Trustees of the Young Lawyers Section. She stressed that the three years of law school is a relatively short time prior to admission to the bar and that liaison between future lawyers now in law schools and state bar associations would be mutually beneficial.

Public Affairs Director's Report

R. Wayne Wilson, the bar association's Director of Public Affairs, met with the board to discuss the work and future planning of his department. He explained that his "public relations" role is best described as one of "two-way communication" with a variety of diverse publics. He discussed various communications activities sponsored by the bar association including the *Bar News*, various newsletters, press releases and "backgrounders" for the general media. Wilson, who is current President of the Seattle Public Relations Round Table, emphasized the importance of personal communications to members of the bar, news media, and the public. Future planning includes a proposed pamphlet for State Bar members describing whom to contact at the bar office for various services.

General Counsel's Report

Kurt Bulmer, the bar association's General Counsel, reported on the work of his four-lawyer office. He stated that his office handles many legal matters for the bar association which do not involve disciplinary proceedings, but devoted much of his presentation to a description of the disciplinary process. He estimated that his department handles about 1,000 complaints annually. All complaints are screened: some involve chronic complainers; others actually amount to a request for a second legal opinion. Legitimate complaints are identified quickly and investigated thoroughly.

Client Security Fund

The Board voted to approve the position of the Client Security Fund Committee that corporate clients be treated in the same manner as individuals. The vote was 7-1, with Hoff opposed and Jones abstaining. The Board also approved a new Article XI of the By-Laws and proposed regulations and guidelines recommended by the committee.

Uniform Legislation

The Board approved the Creditor-Debtor Section's position regarding the proposed Uniform Exemptions Act and the Court Rules and Procedures Committee's position on the proposed Uniform Class Actions Act, and agreed to advise the bar's representatives in the ABA House of Delegates accordingly.

Appointment of Committees

The Board approved numerous committee appointments for the 1977-78 fiscal year which will be published when all appointments are final in a future issue. □



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RESOLUTIONS

... To Be Considered at the 1977 Annual Meeting of the Washington State Bar Association

According to the by-laws of the Washington State Bar Association, resolutions and reports received by the Resolutions Committee at least 60 days prior to the annual meeting are to be published in the *Washington State Bar News* prior to such annual meeting. Those resolutions and reports are reproduced below.

The Resolutions Committee earnestly solicits written responses and comments from members of the Association regarding proposed resolutions and requests that any such responses and comments be submitted to the Resolutions Committee, c/o the Washington State Bar Association, 505 Madison Street, Seattle, Washington. The function and purpose of the Resolutions Committee is to report to the memberships of the Association upon each resolution, giving its recommendations, proposed amendments thereto, or comments thereon.

As announced in the last *Washington State Bar News*, the Resolutions Committee will hold a public hearing prior to the convention. The hearing is scheduled for 10:00 a.m. on September 6th, at the offices of the Bar Association, at the above address. Upon completion of business that day or at the Chairperson's discretion, the hearing will be adjourned to reconvene at the convention at the time and place shown in the preceding convention program. The hearing has been scheduled to start in advance of the convention in an effort to allow more time to those presenting views and in an effort to give the members of the Committee

more time to consider the resolutions and to request any additional information which might be helpful to the Committee in making its recommendations on the resolutions to the membership. Proponents and opponents of resolutions are urged to attend the September 6th hearing if at all possible, and, if not, to present their views prior to that time in concise written form for consideration by the Committee at that hearing. Presence at or absence from the September 6th hearing will not affect any right under the by-laws to present views when the public hearing reconvenes during the convention. At the reconvened hearing, preference in presenting views will be given to those with view points which were not expressed at the September 6th hearing. Proponents and opponents will be given a reasonable opportunity to be heard at the hearing and at the reconvened hearing.

At the conclusion of discussion of each resolution at the reconvened hearing, the Resolutions Committee shall recommend approval or rejection of any such resolution, with amendments if deemed appropriate.

A copy of the by-laws regarding time deadlines and other information about submitting resolutions may be obtained from the Washington State Bar Association Office.

Members of the Resolutions Committee are William L. Dowell, Charles E. Gallup, Bradford M. Gierke, John Murphy, Walter J. Robinson, Lawrence C. Smith, Dean C. Smith, and Kimbrough Street, Chairperson.

**Resolution Calling for the Addition
of Two Non-Voting Lay Members
to the Board of Governors**

BE IT RESOLVED THAT: The Board of Governors shall include two (2) non-voting lay members appointed by a majority of the voting members of the Board of Governors. The first lay member shall serve a one (1) year term; thereafter all other lay members shall serve two (2) year terms. At the 1979 Annual Meeting, the outgoing President shall present a report to the membership evaluating the role of lay members on the Board of Governors and shall make recommendations for changes as he or she deems appropriate.

**Report Explaining Resolution
Adding Non-Voting Lay Members
to the Board of Governors**

Increasing criticism of the legal profession, including remarks by the Chief Justice of the United States Supreme Court, claim that we are a closed profession indifferent to the needs and best interests of our society. The disproportionately low percentage of women and minorities amongst our membership only furthers the image of a closed club.

In response to this criticism, we propose that, on a trial basis, the Bar Association add two non-voting lay members to the Board of Governors. The lay members should have full power to participate in the deliberations of our Board, except for the right to vote.

It is hoped that this experiment will lead to the following desirable results:

(1) Lessen the image of an insulated profession and broaden the diversity of perspectives brought to the work of the Board of Governors.

(2) Provide an opportunity for the addition of women and minorities to the Board of Governors.

(3) Forestall legislative action mandating lay membership on our Board in a manner which we do not consider justified.

The California Legislature empowered the Governor to appoint lay members to the California Bar Association governing board. This was imposed on the California Bar in a manner they did not like and, if anything, it has exacerbated the situation.

If we act now to add lay members of our own choosing and by our own method, we may fore-

stall the imposition of an undesirable system upon us.

The participation of lay members in our association is not without precedent. Our Disciplinary Board has voting lay members and the experience has been excellent both with the deliberations of the Disciplinary Board and the public confidence it has generated.

We would do well to repeat that experiment with our Board of Governors and ask our President to report to us in two (2) years on the success or failure of our efforts. We literally have nothing to lose and a great deal may be gained.

Croil Anderson Timothy R. Fishel
Timothy Bradbury Charles A. Goldmark
Terrence A. Carroll Lawrence L. Longfelder

**Amendment of Membership
Referendum Powers in By-Laws**

BE IT RESOLVED THAT:

1. By-Laws, Article VII, Section 8, shall be amended by striking all of the present Section 8 and substituting a new Section 8 as follows:

Section 8: *Referendums of the Association.* Referendums may be enacted to amend Association By-laws, to modify or reverse a decision of the Board of Governors or of a prior referendum, or on any subject on which resolutions are permitted at the annual meeting. Referendums shall be enacted by the following methods:

- (a) By a two-thirds vote of the active members present and voting at the annual meeting of the Association; or
- (b) By a majority vote of the active members voting in a mail ballot conducted according to Article VII, Section 9. No mail ballot shall be taken unless there has been filed with the Association a petition containing the text of a proposed referendum and signed by 250 of the Association's active members.

2. This proposal shall be referred to a mail ballot vote of the Association's active members pursuant to Article VII, Sections 8 and 9, of the present By-laws.

Report Explaining Resolution Amending Article VII, Section 8, of the By-Laws

RCW 2.48.050, part of the State Bar Act, grants extensive rule-making powers to the Board of Governors. These powers are subject to a proviso which makes the Board's authority subject to initiative and referendum powers to be exercised by active members under rules prescribed by the Board. See RCW 2.48.050(7).

Article VII, Section 8, of the Association's By-Laws is the only rule adopted by the Board of Governors pursuant to this statutory mandate. This Amendment will correct several major deficiencies in the present rule as well as certain procedural requirements that have prevented members from using their referendum powers.

First, the present Section 8 does not allow the exercise of referendum powers at the annual meeting. The Association can enact a referendum binding on the Board of Governors only by a mail ballot of the entire membership. This Amendment would allow enactment of referendums by two-thirds of the active members present and voting in an annual meeting. Any referendums enacted by

the annual meeting can be amended or repealed by a mail ballot of the entire membership.

Second, this Amendment corrects a glaring deficiency in the present rule by specifying that a majority of members voting in a mail ballot is required to enact a referendum. The present section 8 requires participation by 50% of the members but does not state whether a majority or some higher percentage of those participating is required to enact a proposal.

Third, this Amendment eliminates the quorum requirement that 50% of the active members vote in a mail ballot referendum. This unreasonably burdensome requirement alone may have prevented members from exercising their referendum powers. Since no quorum requirement is necessary for election to the Board of Governors, which determines substantially all of the Association's policies, there is no basis for a quorum requirement for votes that might, at best, occasionally set Association policy. If a referendum is important, members will vote. If not, opponents should not be given veto powers by abstention.

Fourth, the present Section 8 requires that referendums on decisions made at an annual meeting or by the Board of Governors must be filed within 60 days of the decision. This requirement has no justification. Several years' experience may be required before the wisdom of a particular policy or program can be fairly determined. The cutoff limit of 60 days precludes thoughtful review by the membership and unreasonably restricts reasoned exercise of its referendum powers. This Amendment eliminates the 60-day requirement.

In general terms, this Amendment will give effect to the legislature's directive, expressed in the State Bar Act, that active members of the WSBA be able to exercise meaningful powers of initiative and referendum. Article VII, Section 8, in its present form, so restricts the exercise of these legislatively-conferred powers that they may never have been exercised. This Amendment implements the statutory mandate and provides a structure for the genuine and responsible exercise of initiative and referendum powers by the Association's active membership.


Croil Anderson Timothy R. Fishel
 Timothy Bradbury Charles A. Goldmark
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1977 Convention Program

TUESDAY — SEPTEMBER 13

12:00 Noon REGISTRATION

Convention Level Hyatt Regency
ALL MEETINGS, ALUMNI EVENTS, SPECIAL
EVENTS AND SOCIAL EVENTS WILL BE
HELD AT THE HYATT REGENCY HOTEL,
HOTEL VANCOUVER AND THE FOUR
SEASONS HOTEL. PLEASE CHECK YOUR
PROGRAM UPON ARRIVAL AT THE
CONVENTION FOR THE ROOM AND HOTEL
FOR EACH EVENT.

WEDNESDAY — SEPTEMBER 14

7:00 A.M. REGISTRATION

9:00 A.M. BOARD OF GOVERNORS

8:30- WORKSHOP PROGRAMS—

10:00 A.M. 1.50 CLE CREDITS EACH

I. CREDITOR-DEBTOR SECTION

Topic: "Truth In Lending Litigation"

Section Chairperson: Thomas R. Dreiling,
Seattle

Panel Members: Jerry T. Dyreson, Spokane—
Chairman
Thomas D. Crandall, Spokane
Richard Lassman, Spokane

II. FAMILY LAW SECTION

Topic: "Child Custody Litigation"

Section Chairperson: Ross Worthington,
Spokane

Panel Members: Robert G. Perlman, Everett—
Chairman
James W. Abbott, Seattle
Miles McAtee, Seattle
Robert M. Reynolds, Tacoma
Richard W. Swanson, Everett

III. TAXATION SECTION

Topics: "Tax Shelters After The Tax Reform
Act Of 1976 And Recent
Developments In Tax Law"

Section Chairperson: E.M. Murray, Tacoma

Panel Members: Robert D. Kaplan, Seattle
Brian L. Comstock, Seattle

10:10- WORKSHOP PROGRAMS—

11:40 A.M. 1.50 CLE CREDITS EACH

*At the conclusion of the following Workshop
programs, each of the sponsoring Sections will hold
its Section Business Meeting — which must
conclude by 12:00 noon.*

I. CORPORATION, BUSINESS & BANKING LAW SECTION

Topic: "Real Estate Limited Partnership
Registration Under The Washington
State Securities Law"

Section Chairperson: Claude M. Pearson,
Tacoma

Panel Members: Jerome D. Whalen, Seattle—
Chairman
Michael E. Stevenson,
Olympia
Robert J. Diercks, Seattle

II. INTELLECTUAL & INDUSTRIAL PROPERTY LAW SECTION

Topic: "Trademark Selection And Protection"

Section Chairperson: John O. Graybeal, Seattle

Panel Members: Robert J. Baynham, Seattle—
Chairman
Benjamin F. Berry, Seattle
Orland M. Christensen, Seattle
John O. Graybeal, Seattle

III. TRIAL PRACTICE SECTION

Topic: "Washington Appellate Practice:
Settlement Conferences"

Section Chairperson: Alan A. McDonald,
Yakima

Panel Members: Joseph A. Thibodeau, Seattle
— Chairman
Arthur D. McGarry, Seattle
Hon. Vernon R. Pearson,
Tacoma
William J. Rush, Tacoma
Hon. Herbert A. Swanson,
Seattle

IV. YOUNG LAWYERS SECTION

Topic: "How To Handle A Commercial
Transaction"

Section Chairperson: Robert W. Burns,
Spokane

Panel Members: C. James Judson, Seattle—
Chairman
J. James Gallagher, Tacoma
Dan P. Hungate, Seattle
Eric K. Nayes, Spokane

12:00 Noon LUNCHEON

Speaker: Joseph Sorrentino, Distinguished
Attorney, Judge, Author, Speaker
and Professor

2:15- SEMINAR PROGRAMS —

5:15 P.M. 3.00 CLE CREDITS EACH

I. CREDITOR/DEBTOR SECTION

Topic: "UCC Article 6— Bulk Transfers:
Trips & Traps"

Section Chairperson: Thomas R. Dreiling,
Seattle

Speakers: Leon A. Uziel, Seattle— Chairman
Paul J. Allison, Spokane
John H. Faltys, Seattle
John Wilkins, Kennewick

II. YOUNG LAWYERS SECTION

Topic: "The Economic And Competent Handling Of The Small Tort Claim"

Section Chairperson: Robert W. Burns, Spokane

Speakers: Robert H. Whaley, Spokane — Chairman
Paul N. Luvera, Jr., Mt. Vernon
Robert P. Piper, Seattle
Ron Abraham, Vice President, Seattle Claims Adjuster Bureau, Seattle
Donald Dell, Allstate Insurance Co., Tacoma
Sharon Selzter, Unigard Insurance Co., Bellevue

THURSDAY — SEPTEMBER 15

7:30 A.M. REGISTRATION

8:30- SEMINAR PROGRAMS —

11:30 A.M. 3.00 CLE CREDITS EACH

I. ADMINISTRATIVE LAW SECTION

Topic: "An Overview Of The Administrative Process In Washington: Application, Impact, Procedure And Review"

Section Chairperson: George Kargianis, Seattle

Speakers: C. Dean Little, Seattle — Chairman
John M. Cary, Seattle
Michael B. Critcher, Seattle
Charles R. Blumenfeld, Seattle
Donald H. Brazier, Olympia
Hon. James M. Dolliver, Olympia
C. Robert Wallis, Administrative Law Judge, Olympia

The Administrative Law Section will hold its Section Business Meeting at the conclusion of the seminar.

II. CRIMINAL LAW SECTION

Topic: "Practical Problems In The Prosecution And Defense Of Negligent Homicide And DWI"

Section Chairperson: Edward G. Holm, Olympia

Speakers: Patrick D. Sutherland, Olympia — Chairman
Trooper David Cassidy, Washington State Patrol
Edward F. Schaller, Jr., Olympia
Dr. Terry Turner, Consulting Physicist, Seattle
Ruth Ellen Wagner, Marysville
Bruce M. Ries, Bellevue

III. REAL PROPERTY, PROBATE & TRUST LAW SECTION

Topic: "Joint Interests; Inverse Condemnation; Recent Developments In Washington Real Property Practice"

Section Chairperson: William J. Kenny, Longview

Speakers: Bruce P. Flynn, Seattle — Chairman
Robert V. Jensen, Olympia
Alan H. Kane, Seattle
Judd Kirk, Seattle
Gerald K. Mooney, Olympia
Stephen D. Tangen, Seattle

12:00 Noon LUNCHEON

Speaker: Carl Stern, Peabody Award-winning NBC News Correspondent

2:00-3:30 P.M. WORKSHOP PROGRAMS — 1.50 CLE CREDITS EACH

I. CORPORATION BUSINESS & BANKING LAW SECTION

Topic: "Real Estate Limited Partnership Registration Under The Washington State Securities Law"

A repeat presentation of this Workshop program, as first presented on Wednesday, September 14th at 10:10 a.m.

II. TRIAL PRACTICE SECTION

Topic: "Washington Appellate Practice: Settlement Conferences"

A repeat presentation of this Workshop program, as first presented on Wednesday, September 14th at 10:10 a.m.

III. YOUNG LAWYERS SECTION

Topic: "How To Handle A Commercial Transaction"

A repeat presentation of this Workshop program, as first presented on Wednesday, September 14th at 10:10 a.m.

3:40-5:10 P.M. WORKSHOP PROGRAMS — 1.50 CLE CREDITS EACH

At the conclusion of the following Workshop programs, each of the sponsoring Sections will hold its Section Business Meeting — which should conclude by 5:30 p.m.

I. CREDITOR-DEBTOR SECTION

Topic: "Truth In Lending Litigation"

A repeat presentation of this Workshop program, as first presented on Wednesday, September 14th at 8:30 a.m.

II. CRIMINAL LAW SECTION

Topic: "Evaluating Problems With Blood Alcohol Ratings"

Section Chairperson: Edward G. Holm, Olympia

Panel Members: Ruth Ellen Wagner, Marysville — Chairwoman
David Cassidy, Trooper, Washington State Patrol
Edward F. Schaller, Jr., Olympia
Dr. Vidmantas Raisyis, Washington State Toxicologist
Bruce M. Ries, Bellevue

III. FAMILY LAW SECTION

Topic: "Child Custody Litigation"

A repeat presentation of this Workshop program, as first presented on Wednesday, September 14th at 8:30 a.m.

IV. REAL PROPERTY, PROBATE & TRUST LAW SECTION

Topic: "Personal Representatives Workshop"

Section Chairperson: William J. Kenny, Longview

Panel Members: Bruce P. Flynn, Seattle—
Chairman
Robert S. Mucklestone, Seattle
Joseph Nappi, Spokane
David L. Servies, Seattle

3:40-5:10 P.M. **V. TAXATION SECTION**
Topic: "What To Do When The Tax Man
Cometh—Federal Tax Procedure &
Tax Liens"

Section Chairperson: E. M. Murray, Tacoma
Panel Members: Julie W. Weston, Seattle—
Chairwoman
Daniel T. Maggs, Spokane
Gary C. Randall, Spokane

6:30-8:30 P.M. **WASHINGTON STATE BAR ASSOCIATION**
No Host Cocktail Party
Music-Entertainment—Complimentary Hors
d'Oeuvres

FRIDAY—SEPTEMBER 16

8:00 A.M. **REGISTRATION**

8:30 A.M.-12:00 Noon **ANNUAL BUSINESS MEETING**

Presiding: Richard H. Riddell, President
Washington State Bar Association
State of the Judiciary: Chief Justice
Charles T. Wright

Awards
Hawaii Drawing

12:00 Noon **LUNCHEON**

Speaker: Al McGuire, Former Basketball Coach
of the Marquette Warriors, 1977
NCAA Champions

2:00-5:00 P.M. **SEMINAR PROGRAMS—
3.00 CLE CREDITS EACH**

I. CORPORATION, BUSINESS & BANKING LAW SECTION

Topic: "Corporate Practice Problems & The
Washington Business Corporation
Act: Proposed Revisions

Section Chairperson: Claude M. Pearson,
Tacoma

Speakers: P. Cameron DeVore, Seattle—
Chairman
Douglas Branson, Tacoma
C. Kent Carlson, Seattle
Peter D. Francis, Seattle
Francis A. Kareken, Tacoma
Richard O. Kummert, Seattle
Allan H. Toole, Spokane
Bert H. Weinrich, Seattle
Duane C. Woods, Olympia

II. INTELLECTUAL & INDUSTRIAL PROPERTY LAW SECTION

Topic: "The New Federal Copyright Act"
Section Chairperson: John O. Graybeal, Seattle
Speakers: Bernard A. Donahue, Seattle—
Chairman

Jon A. Baumgarten, General
Counsel, U.S. Copyright Office,
Washington, D.C.
Edward W. Bulchis, Seattle
David L. Garrison, Seattle
Robert A. Jensen, Seattle

III. TRIAL PRACTICE SECTION

Topic: "Proof Of Damages: Various Aspects"
Section Chairperson: Alan A. McDonald,
Yakima

Speakers: John C. Coughenour, Seattle—
Chairman
Willard Walker, Longview
John J. Sullivan, Seattle
Hon. Robert F. Utter, Olympia
Ronald J. Perey, Seattle

2:00-5:00 P.M. **IV. CONTINUING LEGAL EDUCATION
COMMITTEE**

Topic: "Professional Service Corporations:
From Organization To Dissolution"

Seminar Chairman: Stephen C. Ellis, Seattle
Speakers: Jerry L. Myers, CPA, Seattle
Roger L. Stouder, Seattle
Neil S. McKay, Seattle
Donald C. Dahlgren, Seattle

6:30 P.M. **NO HOST COCKTAIL PARTY**

8:00 P.M. **DINNER**

10:00 P.M. **SHOW:**
Featuring—Danny Davis & the Nashville Brass

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

SATURDAY—SEPTEMBER 17

8:30-11:30 A.M. **SEMINAR PROGRAMS—
3.00 CLE CREDITS EACH**

*At the conclusion of the following Seminar
programs, each of the sponsoring Sections
will hold its Section Business Meeting—
which must conclude by 12:00 noon.*

I. ANTITRUST SECTION

Topic: "New Directions In Government
Enforcement Policies And
Procedures"

Section Chairperson: J. Paul Coie, Seattle
Speakers: Richard S. White, Seattle—
Chairman

Thomas L. Boeder, Assistant State
Attorney General and Chief—
Consumer Protection & Antitrust
Division, Seattle

Anthony E. Desmond, Chief—San
Francisco Office, Antitrust
Division, U.S. Dept. of Justice,
San Francisco

William C. Erxleben, Regional
Director, Federal Trade
Commission, Seattle
Christopher Kane, Seattle

II. ENVIRONMENTAL AND LAND USE LAW SECTION

Topic: "Oil Spills; Energy Conservation And
Plant Siting Problems; Legislative
Update"

Section Chairperson: Lee Kraft, Bellevue
Speakers: Irving M. Clark, Jr., Seattle—
Chairman

R. Ted Bottiger, Tacoma
 Larry Bradley, Director, State Energy
 Office, Olympia
 Charles W. Lean, Olympia
 John E. Woodring, Olympia

SPOUSES' PROGRAM

THURSDAY

2:00 P.M. Marilyn Van Derbur
 Outstanding speaker, sportswoman, teacher and
 former Miss America

FRIDAY

10:00 A.M. Diane Oberquell
 Chairman of the State Board of Prison Terms
 and Paroles

10:00 A.M. Gourmet Microwave Cooking
 Spotlighting preparation of specialties
 for entertaining

Spouses activities are complimentary and are presented for the
 enjoyment of those in attendance.

ALUMNI AND SPECIAL EVENTS

WEDNESDAY — SEPTEMBER 14th

4:00 P.M. LOCAL BAR PRESIDENTS MEETING

5:00 P.M. ENVIRONMENTAL LAW & LAND USE
 SECTION
 No-Host Cocktail Party
 Contact: George Mack

6:30 P.M. RESOLUTIONS COMMITTEE MEETING
 Contact: Kimbrough Street

THURSDAY — SEPTEMBER 15th

7:30 A.M. PAST PRESIDENTS BREAKFAST *4 Seasons*

7:30 A.M. UNIVERSITY OF UTAH BREAKFAST
 Contact: Paul Goodrich

7:30 A.M. TAXATION SECTION EXECUTIVE
 COMMITTEE
 Breakfast
 Contact: E.M. Murray

7:30 A.M. ADMINISTRATIVE LAW SECTION
 Breakfast
 Contact: George Kargianis

5:00 P.M. PHI ALPHA DELTA
 No-Host Cocktail Party
 Contact: R.R. DeYoung

5:00 P.M. CORPORATION, BUSINESS & BANKING
 AND TAXATION SECTIONS —
 No-Host Cocktail Party
 Contact: Claude Pearson

5:00 P.M. WASHINGTON WOMEN LAWYERS
 No-Host Cocktail Party
 All Women Lawyers are invited to attend
 Contact: Jane Noland

5:15 P.M. TACOMA-PIERCE COUNTY BAR
 No-Host Cocktail Party
 Contact: J. Kelley Arnold

5:30 P.M. WILLAMETTE LAW SCHOOL ALUMNI
 No-Host Cocktail Party
 Contact: Lary Harvey

5:30 P.M. HASTINGS LAW SCHOOL ALUMNI
 No-Host Cocktail Party
 Contact: Charles Vulliet

6:00 P.M. AMERICAN COLLEGE OF TRAIL LAWYERS
 Cocktails and Dinner
 Contact: Paul Cressman

7:30 P.M. YOUNG LAWYERS SECTION
 No-Host Cocktail Party
 Contact: Phil Brandt

8:00 P.M. UNIVERSITY OF WASHINGTON
 LAW SCHOOL
 Class of 1957 — Reunion-Dinner
 Trader Vic's, Vancouver, B.C.
 Contact: James D. Burns

FRIDAY — SEPTEMBER 16th

7:00 A.M. UNIVERSITY OF WASHINGTON
 Alumni Breakfast
 Contact: Charles Smith

7:30 A.M. CORPORATION, BUSINESS & BANKING
 LAW SECTION —
 Executive Committee Breakfast
 Contact: Claude Pearson

7:30 A.M. GONZAGA LAW SCHOOL
 Breakfast
 Contact: Tony Hazapis

7:30 A.M. UNIVERSITY OF PUGET SOUND
 Breakfast
 Contact: Bruce Meyers

7:30 A.M. AMERICAN COLLEGE OF PROBATE
 COUNSEL
 Breakfast
 Contact: Roger Underwood

7:30 A.M. GEORGE WASHINGTON UNIVERSITY
 Breakfast
 Contact: Oscar Zabelle

7:30 A.M. YALE LAW SCHOOL ALUMNI
 Breakfast
 Contact: James N. O'Connor

8:00 A.M. UNIVERSITY OF MICHIGAN LAW SCHOOL
 Breakfast
 Contact: Don Skinner

5:30 P.M. HARVARD LAW SCHOOL ALUMNI
 No-Host Cocktail Party
 Contact: Mike Liles

SATURDAY — SEPTEMBER 17th

8:00 A.M. CHRISTIAN LEGAL SOCIETY
 Breakfast
 Contact: Joel Paget

□

Good Advice from a Practiced Palate

Brewster's Restaurant Guide to Vancouver

By DAVID BREWSTER

Vancouver, where the living is expensive and the population is drawn from the far corners of the world, is one of the great eating cities in North America. Now that the economy is in one of its lulls, you will find that you can get into many of the most popular spots without having booked three weeks in advance. One warning before we begin: many of the restaurants are small places — this is particularly true of the “House-French” restaurants — and on weekends when the business is brisk, the service and the performance in the kitchen may both drop considerably below the level of mid-week. That caveat digested, you're in for some excellent gourmandizing.

William Tell, 722 Richards Street, 683-8810, dinner only. Vancouverites come here for their special occasions, and it's easy to see why. The service is extraordinarily gracious — New York skill, with Northwest courtesy. The large menu, specializing in veal and steaks, with superior fish appetizers, is always flawlessly executed. The house specialty is a fondue bourgignonne and very nice it is, but you're missing the best dishes if you pick it. Two warnings: the place is quite

expensive, and the wine list (as in most restaurants in protectionist British Columbia) is not up to the rest of the fare.

Umberto's three Italian restaurants, 1380 Hornby Street, 687-6316. There are three choices here, each very good. **Umberto's** itself is strikingly handsome and it serves rich Florentine specialties in a room full of the smartest-dressed people you've seen this side of Paris. The newest one is next door: **Il Giardino**, specializing in Italian game dishes, has not quite worked out the bugs or conquered the limitation of mostly frozen game. The best of the three is **La Cantina**, also next door, where the most amazingly fresh seafood is prepared in exquisite ways. From the first taste of the seafood antipasto you will think that you are in what I at least consider to be the finest restaurant in the entire Northwest. (Only **Giardino** is open for lunch.)

David Brewster is founder and publisher of *the Weekly*, a magazine of news and commentary serving the metropolitan Seattle area. A widely read observer of Northwest life, he is the editor of the bestselling book *The Best Places* and is now completing the second edition, to be published in the fall. He was formerly managing editor of *Argus* and editor of *A Gourmet's Notebook*.

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PHOTOGRAPHIC COMPOSITION

Typeline

Pasparos Taverna, 132 West Third Street, North Vancouver, 980-0331, dinner only. This Greek spot is quite out-of-the-way, but it has a pleasant view back over the water to the city and the food is wonderful, particularly the lamb dishes. The prices are good and the atmosphere is infectious.

The Muck-a-Muck, 1724 Davie Street, 684-7931, dinner only. The thought of a restaurant in an Indian longhouse serving Indian food makes you suspicious, I know, but the food is as delicious as it is unusual. It's a great way to have seafood, fresh fruit, and something like sauteed fern shoots that you may never have considered before. It's very popular — with Native Americans, for one thing — and there are no reservations, so arrive early: opens at 5:30.

The Fado, 881 West Broadway, 874-6531. Here's another place with an excellent way with seafood, the Portuguese way. Don't be put off by the plain exterior upstairs; the restaurant is very pleasant and the cooking is of a very high order.

Yong Yong Tree, 2718 Main Street, 876-4912. Now we enter the shifting world of favorite Chinese restaurants in Vancouver. This one has the most coolly modern atmosphere and fiery hot Szechuanese dishes that the chef is a master of; ask him what he recommends.

La Brochette, 52 Alexander Street, 684-0631, dinners only. Here is an attractive room in warm stucco and wood, with a large open fireplace before which is slowly roasting your meal. The delicious meat is accompanied by French appetizers, vegetables, and desserts.

Toulouse Lautrec, 1427 Howe Street, 685-7731. This house restaurant differs from many of the other French entries because its menu is more adventurous. Added to the menu's excellent items like cassoulet and mousseline of pike are some new game dishes, including a gamy-tasting pheasant.

Brasserie de l'Horloge, 300 Water Street, 685-4835. About as handsome a place as one can find, the Brasserie offers simple, inexpensive French dishes such as quiches, brochettes, or a choucroute. It's a very nice place to go to after the theater.

On On Tea Garden, 214 Keefer Street, 685-7513. Prime Minister Trudeau likes this place

and you will too. It's tiny, ugly — just right. The best dishes are the seafood, done Cantonese style. You take it on its terms: it closes early (9 p.m.) and takes no reservations.

Lili La Puce, 1616 Alberni Street, 685-3924, dinners only. It's as pretty a house restaurant as the city offers. For some reason, so much attention is lavished on the ancillary dishes (like the desserts and salad and fish appetizers) that the main courses seem sub-par. Go on a weeknight.

Napoleon, 869 Hamilton Street, 688-7436. This French restaurant is the most sumptuous, most expensive, most grand. The dishes can be excessively rich — lobster finished with cognac and pernod, topped with a heavy cream sauce — and the tab might be painful considering a few lapses, but on a good night this Parisian place is hard to beat.

Three Greenhorns, 1030 Denman Street, 688-8655. The nautical decor should not throw you off: there's serious continental cooking going on here. The dishes are quite inventive, although at times the cleverness overwhelms the good ingredients. Plush, relaxing, and mostly delicious.

Chez Joel, 217 Carrall Street, 685-4910. This French restaurant in Gastown is probably the favorite of regular francophiles in Vancouver. The dishes are mostly provencal and extremely good; the service is marvelous too. If you really want to impress someone, ask for the extraordinary bouillabaisse, which must be ordered 24 hours in advance.

The Cannery, 2205 Commissioner Street, 254-9606. It's very big, it has a smashing view of Burrard Inlet, and it's jammed. And, surprisingly, it's very good if you stick with the fresh fish. □

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Report of the Lawyer Representatives to the 9th Circuit Judicial Conference

The Ninth Circuit Judicial Conference met in Kauai, Hawaii from June 11 to June 16, 1977 "for the purpose of considering the business of the courts and advising means of improving the administration of justice within the Circuit" (28 U.S.C. §333).

By statute, all District and Circuit Court Judges in the Ninth Circuit are members of the Conference. The enabling statute also directs that there shall be "representation and active participation at such Conference by members of the Bar of such Circuit." Because the Conference was not functioning as well as intended, the Chief Judge appointed a committee on reorganization in 1974. The committee completed its report in March of 1976. This Conference was the first held after the reorganization.

In the past lawyers to the Conference had been selected by judges often for "social consideration unconnected with whether the representatives had contribution to make or interest relevant to the purpose of the Conference." Starting with the 1977 Conference, Lawyer Representatives were selected on the basis of five requirements.

(1) That the representatives be involved in Federal practice;

(2) That the representatives be interested in the purposes of the Conference;

(3) That the representatives be willing and able actively to contribute to that end;

(4) That the representatives be willing to assist in implementing Conference programs with the Local Bar; and

(5) That representatives, together with others selected, will make up a fair cross-section of practitioners before the Federal Court.

In the Eastern and Western Districts of Washington, a committee of Federal Practitioners nominated a number of lawyers who met the above criteria and the following were appointed by the District Court Judges.

Western District

Robert D. Duggan, Seattle

James P. Hunter, Everett
William H. Ferguson, Seattle
Ronald E. McKinstry, Seattle.

Eastern District

Robert William (Bill) Burns, Spokane

Each district in Washington was also entitled to an additional one-half lawyer representative. To avoid the problem of asking an Eastern or Western Washington lawyer to be one-half of a lawyer for a week, John Gavin of Yakima was appointed to represent both the Eastern and Western Districts.

The Washington Bar was represented on the Executive Committee of the Conference by Robert W. Graham of Seattle. Richard H. Riddell, President of the Washington State Bar Association, attended as the representative of the Washington State Bar Association. Also attending the Conference were U.S. Attorney John C. Merkel and Federal Defender Irwin H. Schwartz.

The most crucial problem facing the Federal Courts today — congestion of court calendars, was discussed both from the civil and criminal perspective. From 1970 to 1976, the combined civil and criminal cases pending per Judge increased from approximately 125 to 275 in the Eastern District and from 250 to 450 in the Western District.

Part of the delay has been attributed to the Speedy Trial Act of 1974. The Speedy Trial Act of 1974 (18 U.S.C. 3161, *et seq*) was designed to "achieve the speedy disposition of criminal cases." The Act contemplates that by July 1, 1979, a criminal defendant will be tried within 100 "net" days of arrest or service of summons. We are presently in the four-year phase-in period which was provided to permit the Federal courts to "gear up" for the full implementation of the Act. The Federal Courts in Washington are spending nearly all of their Court's time trying criminal cases.

A second factor in court congestion, in addition to the sheer number of criminal and civil cases pending per judge is the increase in the complex or heavier than average cases (copyright, patent and trade mark, civil rights and antitrust; forgery and counterfeiting, fraud, homicide, robbery assault and sex offenses). In the Ninth Circuit civil filings weighted heavier than average, have in-

creased from 5% of the civil case load in 1970 to 16% in 1976.

One of the solutions to the problem — more judges — is before Congress now. The Western District was originally slated to receive two new judges plus a replacement for Judge Goodwin. The Eastern District was to receive one new judge, but at this writing the matter is still up in the air.

A second proposed solution, advanced by Chief Justice Burger, and others is to eliminate diversity cases. This generally would eliminate tort claimants and some contract claims (e.g. Kingdome). The Lawyer Representatives felt that elimination of litigants in the name of efficiency and administration of justice is at best ironic.

A third solution suggested to reduce the delay to civil litigants was in the (a) use of the U.S. Magistrates to try cases or conduct settlement conferences, (b) set up arbitration panels composed of experienced lawyers to arbitrate disputes and (c) increase the use of special masters under Rule 53. These suggestions offer the best short term hope for a civil litigant looking at a 3-4 year delay in getting to trial.

Appellate review of criminal sentences is an old but hot issue. The Senate is now considering S. 181, the House H.R. 1182, both of which would set up a United States Commission on sentencing which would set guidelines in sentencing and would require the court to state the reasons for the sentence and permit appellate review. The Judicial Conference of the United States has submitted a bill to amend the Federal Rules of Civil Procedure to add Rule 35.1 which would permit appellate review of sentences by both the government and defendant under certain circumstances. Those interested in this subject should make their views known to their congressmen and senators immediately.

At the close of the Session, the Washington Bar was honored by the nomination and election of William Ferguson as Chairman of Coordinating Committee. This Committee is composed of the Chairmen of each of the delegations of Lawyer Representatives from each district in the Ninth Circuit.

The Washington Bar was further honored by the reelection of Robert Graham to the Executive Committee. □



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You Can't Always Get What You Want

By **TERRY NOBLE FOSTER**
*Assistant Director of Continuing
Legal Education*

Searching for new and interesting subjects for presentation in CLE programs is not always rewarded by the enthusiastic support of bar members. The Management of a Lawyer's Life II Seminar, held in June, included a discussion on "Overcoming Stress by Transcendental Meditation." Shortly after the brochures were mailed, we received a letter informing us that the California State Supreme Court had recently deemed T.M. to be a religion. The writer voiced his objection to the T.M. session since it might appear to advance the claims of a religion and thus create an obligation to provide equal time to other religious groups.

Sometimes, the seminar topic meets with approval, but the scheduling is all wrong. *Businesses in Trouble* was held April 8 in Spokane. We didn't know that the title of the seminar was destined to describe more than the program content. Although 126 attorneys were present for the program, we received one vehement objection to the seminar date, since it fell on Good Friday, and was therefore, insensitive to the Christian Community.

Another suggestion for scheduling was received from a sports-minded individual. He suggested:

"... that the seminars be scheduled so that the night before some special event take place in Seattle such as a baseball game, basketball game, or whatever." (sic)

Once the topic and the date are suitable, there are other obstacles which befoul the atmosphere of learning.

"... for those of us who don't smoke . . . the conditions became almost intolerable. Particularly in light of the fact that our attendance at a percentage of these seminars is now mandatory, I don't think the institution of a no smoking rule would be unreasonable."

Note: Our policy has been one of providing no smoking sections at each of the seminar sites.

As noted in the CLE Index, a pamphlet worthy of your attention, we have several programs scheduled for the Fall and Winter of 1977.

Legal Problems of the Elderly is a very timely and innovative seminar series designed to help the practitioner deal with such matters as Medicare, Medicaid, Nursing Home Law, Social Security, Pensions, Consumer Problems, Guardianships and practical aspects of dealing with the elderly client.

Trial Advocacy IV will concentrate exclusively on motion practice, a subject which almost everyone would like to know more about. Pre-trial, trial and post-trial, civil and criminal motions all will be examined.

Washington Administrative Practice and Procedure will shed light on how one practices law with those mysterious commissions, boards and agencies. A very extensive practice manual will accompany this seminar, providing a much needed reference work which will be of continuing value to the practitioner.

In addition, a two-day *Estate Planning Institute* will be held in November and the first of a series of *Commercial Law* seminars will get under way at year's end.

Brochures for all of the above-listed seminars will be mailed approximately one month before the seminar date. It is anticipated that a large number of registrations will be received for all of these end-of-the-year programs. Door registration may not be possible in some cases, so be sure to register early.

The Midwest Practice Institute is sponsoring a 1½ day seminar entitled "The Lawyer as Negotiator" September 23 and 24 at the Seattle Center.

Enrollment in this seminar is limited to 100. The tuition of \$175 includes the text, lectures, coffee breaks, videotaped exercise and hand-out materials. To register for this program, contact N. Bruce Singer, Esq., Executive Director, Midwest Practice Institute, 861 West Butler Square, Minneapolis, Minnesota 55403. The program is approved by the CLE Board for 9.00 CLE credit hours. □

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, which is supplemental to those appearing in previous issues of the *Bar News* is in three parts. First, a listing of program sponsors who 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. Because of space limitations, this listing is now confined to programs within the State of Washington and other selected programs of national scope. Information relative to courses not listed may be obtained from the CLE Department at the Bar Office. Third, a listing of courses which have been disapproved — attendance at these courses may not be used in satisfaction of the CLE requirement.

Individuals are reminded that credit figures listed are maximums only. Actual hours of attendance by the lawyer is the determinative factor.

ACCREDITED SPONSORS

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Continuing Legal Education in Montana — University of Montana School of Law

JAGS

The Judge Advocate General's School — U.S. Army

MARYLAND INSTITUTE FOR CONTINUING PROFESSIONAL EDUCATION OF LAWYERS, INC.

NCCDLPD

National College Of Criminal Defense Lawyers and Public Defenders

PAPD

Program of Advanced Professional Development — University of Denver Law Center

WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

COURSES APPROVED

ASSOCIATION OF IMMIGRATION AND NATIONALITY LAWYERS

Conference on Immigration

May 25-June 1, 1977: Bermuda 34.25

COMMUNITY PROPERTY JOURNAL

Community Property Estate Planning

Oct. 24-25, 1977: Las Vegas 9.50

DEFENSE RESEARCH INSTITUTE

Litigation: Tactics & Techniques

Oct. 7-8, 1977: Lincolnshire, Illinois 12.50

FEDERAL BAR ASSOCIATION

Indian Law Conference

April 21-22, 1977: Phoenix 13.50

FEDERAL PUBLICATIONS, INC.

Changes in Government Contracts

Oct. 11-13, 1976: Seattle 16.50

Government Contract Costs

May 25-27, 1977: Seattle 16.50

Concentrated Course in Government Contracts

Aug. 22-26, 1977: Berkeley 37.50

HASTINGS COLLEGE OF THE LAW

1977 Civil Advocacy College

July 31-August 6, 1977: San Francisco 45.00

ILLINOIS INSTITUTE FOR CONTINUING LEGAL EDUCATION

15th Annual Corporate Counsel Institute

Oct. 6-7, 1976: Chicago 12.50

16th Annual Corporate Counsel Institute

Oct. 12-13, 1977: Chicago 12.25

INTERNATIONAL ASSOCIATION OF INSURANCE COUNSEL

Insurance Counsel Trial Academy

July 24-29, 1977: Boulder 28.50

NATIONAL COLLEGE OF CRIMINAL DEFENSE LAWYERS AND PUBLIC DEFENDERS

1977 Trial Practice Seminars

May 23-June 4, 1977: Houston, Texas 62.50

June 13-June 25, 1977: Houston, Texas 62.50

NATIONAL LAWYERS GUILD

Frontier Issues in Criminal Litigation

August 17, 1977: Seattle 6.75

NATIONAL TAX ASSOCIATION — TAX INSTITUTE OF AMERICA

69th Annual Conference On Taxation

Nov. 14-18, 1976: Phoenix 12.00

PRACTISING LAW INSTITUTE

Medicine For Lawyers
 Aug. 11-12, 1977: San Francisco 14.00

15th Annual Defending Criminal Cases
 Aug. 26-27, 1977: San Francisco 12.00

8th Annual Estate Planning Institute
 Aug. 22-23, 1977: San Francisco 10.00

Banks & The Securities Laws
 Sept. 15-16, 1977: LA 11.50

ROCKY MOUNTAIN MINERAL LAW FOUNDATION

23rd Annual Rocky Mountain Mineral Law Institute
 June 14-17, 1977: Lake Tahoe, Nevada 14.50

TULANE UNIVERSITY

Admiralty Law: American Law Of Collision
 March 16-18, 1977: New Orleans 13.75

UNIVERSITY OF MIAMI LAW CENTER

11th Annual Institute on Estate Planning
 Jan. 10-14, 1977: Miami Beach 20.75

9th Annual Medical Institute For Lawyers
 Feb. 2-5, 1977: Miami Beach 16.00

UNIVERSITY OF PUGET SOUND SCHOOL OF LAW

Northwest Institute on Indian Law
 Sept. 9-10, 1977: Tacoma 9.00

**WALLA WALLA-COLUMBIA COUNTY
 LEGAL DEFENSE ASSOCIATION**

Criminal Law Seminar
 May 6, 1977: Walla Walla 4.00

**WASHINGTON STATE CRIMINAL JUSTICE
 TRAINING COMMISSION**

Prosecution of Traffic Offenses
 Oct. 8-9, 1976: Spokane 11.50
 Oct. 29-30, 1977: Seattle 11.50

Prosecution of Economic Crimes
 Oct. 15-16, 1976: Spokane 10.00
 Oct. 22-23, 1976: Seattle 10.00

Prosecution of Negligent Homicides
 Jan 21-22, 1977: Spokane 9.00
 Jan 28-29, 1977: Seattle 10.50

Forensic Evidence
 Feb. 4-5, 1977: Spokane 12.00
 Feb. 25-26, 1977: Seattle 12.00

Regulatory Offenses
 March 23, 1977: Yakima 3.00

Trial Techniques
 March 24-25, 1977: Yakima 13.50

Defenders Orientation
 May 27-28, 1977: Issaquah 10.00

Criminal Law Update
 May 21, 1977: Yakima 3.00
 June 4, 1977: Seattle 3.00
 June 11, 1977: Spokane 3.00
 June 18, 1977: Olympia 3.00

Prosecutors Evidence Seminar
 June 27-28, 1977: Ocean Shores 12.00

Magistrates Fall Conference
 Sept. 26-29, 1976: Spokane 9.50

Orientation to the Judiciary
 Jan. 3-7, 1977: Seattle 31.00

Indian Treaties & Rights
 March 21-22, 1977: Yakima 14.00

Magistrates Spring Conference
 March 23-25, 1977: Yakima 23.00

Superior Court Judges Spring Conference
 April 20-22, 1977: Richland 14.50

WASHINGTON STATE TRIAL LAWYERS ASSOCIATION

Proof & Persuasion In Personal Injury Cases
 June 24-25, 1977: Seattle 8.50

WESTERN PENSION CONFERENCE

16th Annual Meeting
 May 2-4, 1977: Monterey, CA 10.75

WESTERN TRIAL LAWYERS ASSOCIATION

Joint Program With ATLA
 April 28-29, 1977: Las Vegas 15.25

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EAST KING REPORT

By **BARRY J. HASSON**

The July luncheon meeting of the East King County Bar Association featured **Rod Chandler** and **Will Knedlik**, state representatives from the 45th district, who gave us a wrap up, so to speak, of the marathon recent legislature. They were introduced by Vice President **Ralph Thomas**. Among other interesting tidbits, we learned from Will, an Eastside attorney, that, of 98 members of the House, four are practicing attorneys and one is retired. Someone commented that this benefits attorneys who will now have to spend hours interpreting, sorting out, and fighting over what the legislature thought it was doing.

Judge **Tony Wartnik** announced the Washington State Magistrates' Association will be meeting in Bellevue in mid-September.

New faces on the East Side include **Jerry W. Bird** and **Richard E. Percival**, who have joined **Hugh McDowell** with the firm to be known as McDowell, Bird and Percival, and who will have new offices in the Sunset Village Mall and a branch office in North Bend. **Kathryn Lee** is brightening up the East Side courts as a Rule 9 intern assisting **Doug Cowan**, the Bellevue City Prosecutor (and we know he needs it).

Not a new face to the East Side, but a new attorney is **Robert S. Derrick**, Senior Planner for the City of Redmond who has recently become a member of the Bar. He will maintain his position with the City of Redmond.

In a new association on the East Side, **Jay Nuxoll** and **J. Hartly Newsum** have joined forces as Nuxoll and Newsum, and **Gene Grantham** has moved over from Eastgate to be an associate with that firm.

SEATTLE - KING REPORT

By **JOHN SOLTYS**

The Washington State Trial Lawyers Association welcomes its newest officers, **William P. Wimberley**, President, **Dean Bender**, President-Elect, **Ronald J. Bland**, Vice President — West, **Robert H. Whaley**, Vice-President — East, **Paul L. Stritmatter**, Recording Secretary, **Terrence M. McCauley**, Treasurer, **Jan E. Peterson**, Editor-in-Chief, **Dennis Hindman**, Seminar Chairperson, **Paul N. Luvera, Jr.**, Law Journal Editor, **Henna Reisner**, Executive Director, and **Michael Ryherd**, Legislative Advocate.

Scholfield & Stafford announces that **Leslie K. Lynch** and **Ronald Scott Bemis** have become associates of the firm which is located at 400 Union Street, Seattle, Washington 98101, 623-9900.

Young & Cole, Inc., P.S. 1035 Dexter Horton Building, 710 Second Avenue, Seattle, Washington 98104, 624-6518, announces the association of **Theodore H. Gathe**.

Robert C. Mussehl announces the formation of a professional service corporation for the practice of law under the name of Mussehl & Birnbaum, P.S., 3737 Bank of California Center, Seattle, Washington 98164, 623-8433.

Adolf D. Koch has opened an office for the general practice of law at 5595 South Harbor Avenue, Post Office Box 550, Freeland, Washington 98249, 321-1441.

Bertha R.S. Houser is moving into offices located at 707 Hoge Bldg, Seattle, 98104, 623-0527.

Sports czar **Bill Leedom** reports the softball standings as:

Bogle & Gates	6-0
Karr, Tuttle	5-1
Williams, Lanza	5-1
Foster, Pepper	4-2
Roberts, Shefelman	3-3
Perkins, Coie	2-4
Prosecutors	2-4
Lane, Powell	2-4
Short, Cressman	1-5
Culp, Dwyer	0-6

Czar Leedom notes that no other counties have dared to accept the "we will take on and demolish all" challenge issued by the King County all stars.

SKAGIT REPORT

By **DAVID A. WELTS**

With pen in hand and emotions mixed, your correspondent writes perhaps his final Skagit Report. Having been drafted by the Skagit Bar to run for the Board of Governors seat being vacated by **Chuck Olson** (Bellingham) your scribe got it. Wonderful, huh? I hear it requires five full days per month.

And, alas, there is the Skagit Report proper. Needing to certainly "clean up my act" and be dignified now, the Skagit Report will never again appear in its customary form which heretofore was always suspect at best.

On to the good stuff. Our ad hoc social committee chairman, **Mike Lewis**, will never equal this one (like the four minute mile, you say?). With one day's notice to all he put together cocktails and dinner and comradery plus for sixty Skagit, Whatcom and Island County Lawyers.

And the REALLY good stuff. The many Skagit lawyers who were invited north to Bellingham to celebrate **George McCush's** 50th Anniversary in the practice say "congratulations George!" His many honors scratch only the surface, in the context of what he has given of himself to the lawyers of this State.

A tip of the hat to George's partner **Jack Ludwigson** who conned his lovely wife, **Sarah**, into making off with all the (magnificent) leftover hors d'oeuvres.

To show you who's important, only two lawyers from this County were invited to the Justice Donworth Supreme Court Memorial. One (**Al McBee**) couldn't make it, leaving one, right? Wrong. **R.V.** (Robin) **Welts** and **Nick Nemo** attended everything. Nick is a law clerk . . . and Robin needed a driver.

And then there was **John Kamb's** criminal defendant who's charge John got dismissed as "de-minimus." Sounds like something **Harry Cross** taught.

SOUTH KING REPORT

By **JAMES L. VARNELL**

Horseplay. The South King County Bar Association held its annual installation dinner at Longacres Race Track with im-

mediate-past-president **Dick Conrad** presiding. The officers for the coming year, who received the traditional installation diatribe by King County Superior Court Judge **David C. Hunter**, are: **Melvin L. Kleweno, Jr.**, president; **James L. Varnell**, vice-president; **Robert E. West**, secretary; and **Michael J. Reynolds**, treasurer. The new members of the board of trustees are **Kameron C. Cayce**, **William J. Donais**, **Stephen K. Harpold**, **Robert W. Kitto**, and **Lawrence J. Warren**.

This lawyeresque gathering was temporarily speechless as a result of the first appearance at an association meeting in years by **Bruce Durocher**. **Gary F. Faull** was unable to attend, having been detained because of his duties of cleaning out the stables.

Biege Open. The annual golf tournament is being held at the Enumclaw Estates Country Club, the home course of **Phil Biege**. Vying for top honors this year will be last year's champion, **Bill Levinson**, and long hitters **Don Mirk**, **Paul Houser**, and **Tom** ("'\$10,000'") **McElmeel**. Due to the delays suffered by this correspondent in being assigned out for trial during the past year, **G.R. "Bob" Rockman**, King County Superior Court Case Assignment Administrator, has been tendered a special invitation to the tournament.

From the Bullpen. Pro Se, formerly an all-attorney softball team, has now taken on some of the trappings of the judiciary. U.S. Magistrate **John L. Weinberg** and Court Commissioner **Joseph A. Thibodeau** of the Court of Appeals, Division I, along with **Tom Clark**, **Jim**

Corcoran and oft-injured **Bill Creech** have provided solid support during the team's late season surge.

New Associations. **Daniel L. Evans**, a 1976 graduate of the University of Puget Sound School of Law and an October, 1976, admittee to the Bar Association, is now associated with **James Gooding** in Kent. **Gregory O. Debay** has become a partner in the Federal Way law firm of Short & Debay, and **Robert E. West, Jr.**, has become a partner in the Auburn firm of Hawkins, Ingalls & West. **Kameron C. Cayce** has opened his law office and is sharing space with **Stan Stone** in Renton.

Reporter's Paragraph. For some time now this correspondent has intended to write a letter complimenting the committee who selected the editor of the *Washington State Bar News* for the committee's choice. However, after two consecutive deletions of this reporter's "deathless prose" due to alleged "space limitations," such a compliment would not now appear to be in order. Other readers of the *Bar News* may differ with this reporter's thoughts and may wish to express their gratification to the editor, a former law school classmate, fellow law clerk on the Court of Appeals in Seattle, and sometimes friend of this correspondent.

YAKIMA REPORT

By **GARY G. MCGLOTHLEN**

At the last meeting of the Yakima County Bar Association, the

best of many candidates for offices for the following year were railroaded. The following nomination for **G. Scott Beyer** made by **John Gavin** at the nominating meeting placed before the membership all the virtues of the individual nominated for the offices. This column will repeat the nominating speeches for the benefit of the Bar of the State of Washington so that they will realize the suffering of the Yakima County Bar Association.

Mr. John Gavin speaking: "Mr. President, I rise to fulfill my role which must be to furnish a nominee for a position to which any lawyer would be proud: Secretary of the Yakima County Bar Association. I have in mind G. Scott Beyer. Mr. Beyer labors in a remote dark musty corner as assistant to **Walt Robinson**. He is not a partner.

He is not an associate. As a matter of fact, he is not even an employee. He works under a document which Walter prepared known as an Indenture in Bondage. It may be of historic interest to understand that this document is one of the first of these that has been executed since President Abraham Lincoln frowned on them in 1862. I am frank to admit that I personally have never met this gentleman but I have seen him at a distance. They tell me fine things about him. I have only heard one adverse comment that said he is not a man of good breeding. I say to you Mr. President he can breed with the best of them. He being the recent father of twins, we may have amongst us, unrecognized, a young George Martin. Mr. President, I suppose someone is going to ask me whether

he is qualified and I say to you that he can read and write and he is a Notary Public and those are far better qualifications than possessed by anyone who has held the office of secretary for the last forty years. What we should do is rescue this man each Wednesday, let him come out of his squalid quarters, out into the sunlight, where he can get some color onto his cheek, come out here and join us, if only for lunch and an afternoon before he has to return, I think we will all feel better so I nominate for secretary, G. Scott Beyer.

There not being a second for the nomination, the vote was formally called for by the acting President, the minutes duefully reflected G. Scott Beyer being the only individual to vote against his election, he was then carried into office. □

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Section Reports

TAXATION

By DONALD W. HANFORD

Federal Gift Taxation

Sensitive tax planners have long been aware of the various methods available for shifting income, and the incidence of taxation, from high bracket taxpayers to lower bracket taxpayers within the same family. Such intra-family income shifting techniques are designed to save taxes by subjecting the income to lower income tax rates and permanently removing it from the high bracket estate of the individual who would otherwise have earned it. One such technique consists of interest-free loans directly to family members or to trusts created for their benefit. If the loan is properly structured, the income earned from the loaned funds will be taxed to the borrowers or trust beneficiaries, and will be removed from the lender's gross estate at death.

However, the usefulness of intra-family loans as a tax planning technique has been limited as a

result of the long standing position taken by the Service that the right to use money is itself an "interest" in property, and is subject to gift tax if transferred for less than an adequate and full consideration. In Rev. Rul. 73-61, 1973-1 C.B. 408, the Service ruled that a father, who had taken out a loan with a bank and, in turn, had loaned the money interest-free to a corporation wholly owned by his son, had made a gift to the son of the value of the right to use the money measured by a fair interest rate. It should be noted that this rationale would apparently apply to low interest loans as well as noninterest loans, and to the free and low-rent use of real estate and other properties between family members. The ruling also gave notice that the Service will not follow the District Court's decision in *Johnson v. United States*, 254 F. Supp. 73 (1966), which held that interest-free loans made by the taxpayer to his children, did not constitute a gift of the value of the use of the money.

The position of the Tax Court with respect to the gift tax status of interest-free loans was recently provided in *Crown v. Commissioner*, 67 TC , No. 88, Dec. 34,331, which involved a

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father whose three-man partnership made interest-free loans in excess of \$18 million to various trusts, the beneficiaries of which were his children. The Court concluded with four judges dissenting, that the ruling described above was incorrect, and adopted the rationale of the *Johnson* decision, the only precedent directly on point. It was noted that the purpose of the gift tax was to prevent the undermining of the estate tax by *inter vivos* gifts. Since the loaned funds were not given away, they would remain includable in the lender's gross estate and fully subject to estate tax at death. In response to the Service's argument that the ultimate estate would be reduced by what could have been earned by the loaned funds, the Court responded that no one is under any obligation to invest money for profit and the "cost of either letting ones money remain idle or suffering a loss from an unwise investment is not taxable merely because a profit could have been made from a wise investment." Moreover, the Court emphasized that to view the value of the use of money as a taxable event would create administrative difficulties since the principal could be extended to other forms of uncompensated sharing of property among relatives.

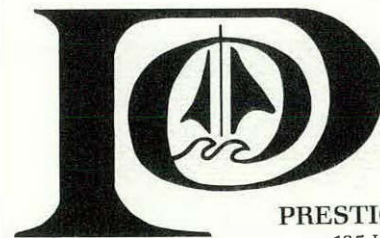
While the Tax Court decision in *Crown* should give greater impetus to the use of the interest-free loan device, it should be kept in mind that four judges dissented and no Court of Appeals has yet sustained the Tax Court's position. Until a decision is rendered by a Court of Appeals on the issue, either on appeal of the *Crown* decision or otherwise, it is likely that the Service will continue to treat the gratuitous use of money and other property between family members as subject to gift tax. □

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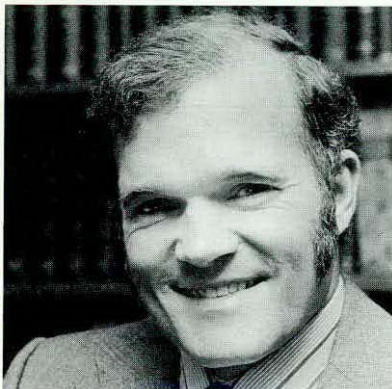


Briefly Noted

Three New Members Elected to Board of Governors

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

David A. Welts has been elected to represent the Second Congressional District. He is a partner in the firm of Welts & Welts in Mount Vernon. A 1959



David A. Welts

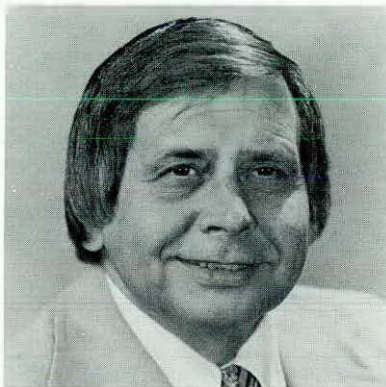
graduate of the University of Washington Law School, he was admitted to the Bar in 1959. He served several years with the U.S. Army before joining R. V. Welts in 1962.

His continuing, active service to the profession includes terms as chairman of the WSBA Civil Rights Committee, President of the Skagit County Bar Association, and, currently, membership in the WSBA Trial Practice Section.

Welts will succeed Charles R. Olson of Bellingham as the Second Congressional District's representative on the Board.

Charles W. Cone has been

elected by the attorneys residing in the Fourth Congressional District. He is a member of the firm of Cone, Kiesz, Gaukroger &



Charles W. Cone

Woolett, Inc. P.S. Graduated from the Montana State University Law School in 1949, he was admitted to the Bar in 1950. A former Chelan County prosecutor, he has been in private practice in Wenatchee since 1960.

Cone is a past president of the Chelan County Bar Association and presently is a board member on the Washington State Council



Lowell K. Halverson

on Crime and Delinquency, the Children's Home Society of Washington and the Chelan-Douglas County Mental Health and Mental Retardation Board.

Cone will succeed Robert R. Redman as the Fourth Congressional District's representative on the Board.

Lowell K. Halverson is the newly elected representative of the Seventh Congressional District. He is a partner in the firm of Halverson, Strong, Moen & Chemnick. After receiving his J.D. degree in 1968 from the University of Washington School of Law, he was admitted to the Bar in 1968. He was associated for a year with a small law firm before forming his own practice in 1970.

Halverson's numerous services to the profession include having been chairman of the Young Lawyers Section of the S-KCBA, a Bar Examiner for the Washington State Bar Association, and a Trustee for the Seattle-King County Bar Association.

Halverson will succeed David D. Hoff as the Seventh Congressional District's representative on the Board.

Christian Legal Society Breakfast to be Held at State Bar Convention

The Christian Legal Society will sponsor a prayer breakfast during the State Bar Convention. This will be the seventh year for the event. The breakfast will be held on Saturday, September 17, at 8:00 A.M. The convention program will list the room location. The guest speaker will be announced at the convention.

Attorneys and their wives interested in attending are re-

requested to make reservations with any of the following:

William H. Ellis, 4400 Seattle-First National Bank Bldg., Seattle 98154, telephone (206) 447-4465; Joel Paget, 3201 Bank of California Center, Seattle 98164, telephone (206) 464-4224; Raymond C. Eberle, 1407 Old National Bank Bldg., Spokane, 99201, telephone (509) 624-2161.

Reception Planned for Women Attorneys at WSBA Annual Convention

The Washington Women Lawyers invite and encourage all women lawyers from around the state to attend a cocktail hour-reception at the Washington

State Bar Convention in Vancouver, B.C., Thursday, September 15, 1977, from 5:00 to 6:30 p.m. The room number in the Hyatt Regency will be listed in the Convention Program.

Fourth Annual Attorney/CPA Fall Golf Tournament Planned

The Washington Society of Certified Public Accountants, in cooperation with the Washington State Bar, Seattle-King County Bar, Pierce County Bar, Snohomish County Bar and Thurston County Bar Associations, will hold the Fourth Annual Attorney/CPA Fall Invitational Golf Tournament September 30, 1977 at the Everett Golf and Country Club. Schedules

and forms for preregistration may be obtained directly by calling the Washington Society of Certified Public Accountants, 624-7246. Events scheduled for the outing include 18 holes of golf at the Everett course, featuring prizes for both handicap and Callaway division golfers, followed by a social hour and informal New York steak dinner in the Country Club dining room.

In Memoriam

Stanley J. Burkey

Mr. Burkey's name was misspelled and he was incorrectly listed as being of Spokane, rather than Tacoma, in the In Memoriam notes of the July issue of the *Bar News*. We offer our sincere apologies.



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For Sale: U.S. Code Service, Proof of Facts (1st, 2nd), Trauma, Cyclopedia of Automobile Law and Practice (not current), Couch-Cyclopedia of Insurance Law (not current). Call Librarian, (206) 344-2160.

For Sale: ALR Federal, up to date, hardly ever used. Approximately \$800 new — will sell for \$550. Call Ed Holm at (206) 943-6747.

For Sale: Set of BNA Tax Management Portfolios, current. \$200.00. Call Myra Williams — (206) 433-3139.

Wanted: One copy of Gray, John C. *The Rule Against Perpetuities*, 4th ed. Boston, Little, Brown & Co., 1942. Call R. Stone (206)-593-6550 or write 1321 Highlands Parkway North #5, Tacoma, WA 98406

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- Sept. 21 CLE Seminar: **Legal Problems of the Elderly**, Sea-Tac Motor Inn, Seattle, \$25
- Sept. 23-24 MidWest Practice Institute program, **The Lawyer as Negotiator**, Seattle Center, \$175, enrollment limit of 100 persons. Contact MPI at 861 West Butler Square, 100 N. 6th Street, Mpls., Minn 55403.
- Sept. 30 CLE Seminar: **Legal Problems of the Elderly**, Red Lion, Spokane, \$25
- Oct 7-9 Aviation and Space Law Section/Seattle-King County Bar: **Fifth Annual Aviation Law Seminar**, Port Ludlow, WA. Address inquiries to: R.A. Bergman, 1310 IBM Building, Seattle, WA 98101, (206) 622-3790.

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1. ACLU Washington affiliate seeks a legal director to coordinate the organization's litigative programs. Director will supervise and support efforts of volunteer attorneys, provide representation for ACLU clients, and develop systems to increase civil liberties litigation in the state. Two years experience preferred, salary negotiable. Director will be expected to become a member of the Washington State Bar. For particulars, write Search Committee, ACLU of Washington 2101 Smith Tower, Seattle, WA 98104.

2. Eight man law firm wishes to hire an attorney with at least 1-2 years of criminal trial experience. This firm presently holds a criminal felony defense contract with the City of Longview and needs someone to begin working immediately. Call or write to C.C. Bridgewater or O.H. Husemoen at P.O. Box 1174, Longview, WA 98632, (206) 423-5220. Salary negotiable at \$12,000.

3. Position available immediately for Staff Attorney for Court of Appeals, Division I. Qualifications: Strong academic background and minimum of three years as member of the Bar. Salary: \$24,200 plus benefits. Job description: Legal research and preparation of memoranda for the court. (206) 464-7750.

4. Medium-sized Seattle law firm, with extensive commercial litigation practice, seeks associate with one to two years litigation experience. Position immediately available. Send resumes to Box 17, WSBA, 505 Madison Street, Seattle, Washington 98104.

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