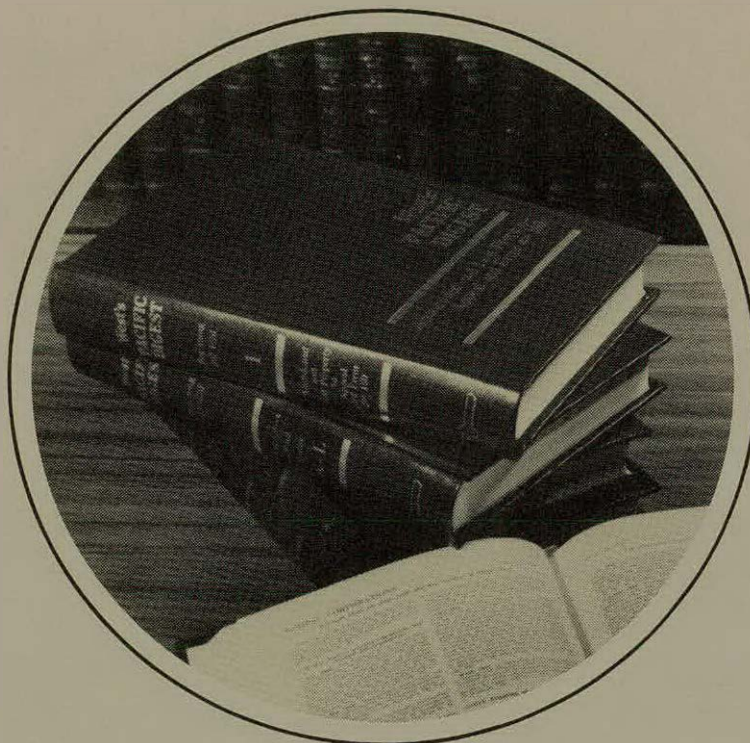


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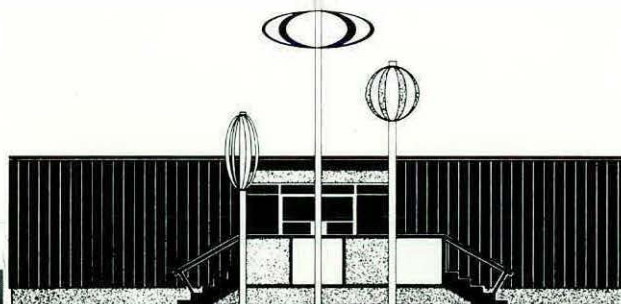
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WASHINGTON STATE BAR NEWS

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Our Cover



Judge Yien Huei-min, People's District Court, Wuhan, China, presides as Plaintiff Wu Ching-li (lower left) challenges her mother-in-law, Defendant Shi Sho-ching, in a property dispute. Photographs courtesy of the National Lawyers Guild. Robert J. Rohan offers a rare eyewitness account of the trial, p. 22. David M. Shelton provides a comprehensive look at the rapidly changing Chinese legal system, p. 14, and Edward E. Henry describes the status of lawyers in that country, p. 10. All three are recent visitors to China.

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Were Trial Guidelines A "Hoax"?

Editor:

I read the Guidelines for the Conduct of Trials, apparently adopted by the Superior Court Judges Association in 1976 with interest. [Bar News, 33:3:16] I am having trouble believing that these guidelines are genuine and not some kind of a hoax designed to stimulate comment by experienced trial lawyers.

With respect to the comments on Voir Dire I would wonder if repeated "objections" by the trial court Sua Sponte might not be prejudicial in some circumstances.

I find the suggestions that it should not take over five minutes in ordinary cases to make opening statements incredible. I think the suggestion that one can dictate how long an opening statement ought take in any trial totally impossible. The suggestion that plaintiffs lawyers "are prone" to instruct juries in opening statements, demonstrates an unjustified bias by those drafting these guidelines.

The guidelines announced the wisdom that "judges know (cross-examination) should be used sparingly" this is incredible news to those of us who have tried lawsuits for more than a few years.

With regard to final argument "thirty minutes maximum" as a "general court rule" demonstrates evidence of the drafters never having tried lawsuits. How can one establish any "general" rule in this regard?

In conclusion all of us have legitimate concerns regarding the manner of trying cases in many courts today. My objection is that these guidelines attempt to set uniform standards for the trial of cases which are unreasonable and unwise.

PAUL N. LUVERA, JR.

Mount Vernon

Answer The FTC Questionnaire (If It's Legal)

Editor:

I read with some amusement your editorial concerning the FTC investigation and the righteous indignation over

the number and nature of the interrogatories proposed. Strange comments indeed on behalf of a profession which spends a substantial portion of its time and energies directing similar requests, and using similar definitions, to unwilling litigants. There may well be meritorious objections supportable either by law or reason but that could not be discerned from the editorial. My personal participation in county and state Bar Association activities leads me to believe that the majority of lawyers has a sincere interest in making legal services available to the public. I should hope that the Bar records and replies to the interrogatories would support this. However, the Board of Governors' reaction will certainly lead an otherwise unknowledgeable public to believe that lawyers have something to conceal.

Unless there are legal grounds for objection beyond "unreasonable, illegal, useless, meaningless, ridiculous, arbitrary, unwarranted, and silly," I would rather see the Bar Association's limited resources directed to making a prompt and meaningful response, rather than

wasting those same resources on fruitless litigation resulting in forced compliance at additional expense with further loss of public esteem.

CHARLES F. VULLIET

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You Read It Here First (And Now You're Sorry)



"I know that you don't have room to publish everything you get," Seattle attorney Burton C. Waldo wrote to me on August 14, 1978, "but I thought this might brighten your day. We saw this in a Dublin paper when we were there last month. It appears that the profession is flourishing in Ireland."

I have kept the clipping Burt Waldo enclosed from the *Irish Independent* tacked to the wall behind my typewriter for the past ten months to see if it would improve with age. It didn't. But it does give the two of us a way to get through this column once again. Here's what the clipping said (it's a talking clipping):

When the *Honourable Albina Broderick* from Killarney left her money "for the benefit of Republicans" when she died in 1948, she posed a case "bristling with difficulties" for Irish lawyers thirty years later.

And the case that Senior Counsel claimed "hadn't moved an inch" since the will was made, was adjourned to October by *Mr. Justice Hamilton* in the High Court yesterday because some of the parties weren't ready to go ahead with the hearing.

It all goes back to the day the *Honourable Albina*, otherwise *Gobnait Ni Bhruadair* of Ballincoona, Castlecove, set up a fund "for the benefit of the Republic of Ireland" and said in her will that about £17,000 of her estate should be applied "for the benefit of the Republicans of the time, according to the objects of the Republicans as they were in the years 1919 to 1921."

This, among other aspects of the will, the Court is being asked to interpret. And the trustees—solicitor Sean A. O

hUaghaigh and *Mrs. Kathleen Larkin*—are asking, among other matters, if the money is to be, or if it can be, applied to the *Honourable Albina's* object.

At a previous hearing it was submitted that the court would first have to decide whether the Republicans were entitled to anything. And secondly, if they were, who were those Republicans who could now claim to properly represent those as they were "in 1919 to 1921".

There were a number of claimants and the trustees were not in a position to say that any one of them was more fit than another to represent "the Republicans".

Earlier this year too, *Mr. Justice Costello* directed that the Earl of Middleton, the *Right Honourable George St. John Broderick*, be represented at the hearing as next-of-kin.

When the matter was mentioned yesterday, *Mr. T.J. Connolly, S.C.*, for the 1921 Club, said they would not be ready to go on this term. The case raised virtually every conceivable point under the Laws of Charity and he never remembered one that bristled with points like this case. They needed to have consultations.

Mr. Justice Hamilton said that the next-of-kin was 90 years of age and unless there was something finalised...

Mr. Connolly said he understood he was supported in his application by counsel for the Attorney General and that counsel for the Trustees was not opposing his application. He understood that it had been estimated the hearing would take three days but in his view this, if anything, was an under-estimate. The testatrix had died in 1948 and he could see nothing to prevent the proceedings from being brought any time since then. He had no affidavits and

all he was asking was that the case be adjourned until the second week of next term.

Mr. Maurice Gaffney, S.C., for the trustees, said the affidavits would be filed that day. He agreed the case bristled with difficulties.

"HARD UP"

Mr. Desmond O'Donovan, for the Earl of Middleton, said the case had not moved one inch since the *Honourable Albina* died. *Micheal O Cleirigh* had been appointed by the court to represent all Republicans in the 1921 Club and he could not see what could be causing any delay just to say who those Republicans were and what they were. The book of rules could be exhibited but the case had not got off the ground.

He was absolutely furious because his client was a very elderly man. His family had been a wealthy one but his inherited wealth was gone and he was "hard up" in the vernacular sense.

Mr. O'Donovan said that nobody seemed to be interested in having the case move one inch except himself. The case involved the construction of a will but *Mr. Gaffney's* solicitors had the will for 23 years and it was only now that it was beginning to bristle with new problems.

What had unfortunately become a farce had gone on too long and he was asking, in the interests of his client, that the hearing be fixed for next week, as already indicated by the court. If the parties, or some of their representatives, were not available to go on he regretted that but he was pressing for a hearing. There were quite a few personalities, possibly in court, who would have to move and get something done.

Mr. O'Donovan added that he could not see what had to go into *Mr. O Cleirigh's*

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Although the vast majority of evidentiary law in Washington is now contained in the Rules and incorporated statutory provisions, some of the law of evidence remains in cases and statutes not readily susceptible of inclusion in the Rules. The Editor has therefore added a series of Appendices containing brief analyses of this additional law: Appendix A summarizes rules and procedures of concerning the admission and exclusion of evidence and preservation of the record for purposes of appeal; Appendix B deals with exceptions to and analysis of Privileges not readily apparent from a reading of the statutory provisions included in the text as an Editor's Note; and Appendix C contains additional material on Competency of Witnesses (including the "Dead Man's Statute").

An early edition of this book is now being used by State, municipal, district and superior court judges, who received it as part of workshops for which the Editor was responsible.

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affidavit other than who the 1921 Club were; where they came from and what they did.

Miss Mary Laffoy, for the Attorney General, said she supported the application to have the case adjourned until next term. They had not seen Mr. O'Donovan's affidavit or Mr. O Cleirigh's.

Mr. Justice Hamilton said they had all the time in the world to file these affidavits and they had not done so.

ALL CLASSES

Mrs. Catherine McGuinness said she was holding a watching brief for Sinn Fein, the Workers' Party. If affidavits were to be put in by Mr. O Cleirigh surely they should be put in as representing all classes of Republicans, rather than as representing the 1921 Club, which was one group.

Now, you may ask yourself, "What does all of this have to do with China?"

Speaking of China, just three months ago I received a copy of a memorandum from our Executive Director, G. Edward Friar. Contrary to his usual practice, he failed to scrawl across the face of it, "Not for publication". The memo reads (it's a literate memo):

TO: The President and Members of the Board
FROM: G. Edward Friar
DATE: March 26, 1979
SUBJECT: Opportunity in China

Vac A. Breindl, who is the Senior Economic Advisor to the Port of Seattle, was on the program at the Comparative Law Institute at Harrison Hot Springs last weekend. Among other bits of information he dispensed was a figure for "inhabitants per law student graduating yearly" and in China that figure per law student was 17 million inhabitants, while in the United States it is 6,560. I have been encouraging our new admittees to go to Goldendale, but maybe I should suggest China! Among other figures used by him were (a) 270 inhabitants per square mile for China as compared to our 61; (b) their annual industrial wage is \$360 as compared to our \$13,400; (c) feet of paved roads per person in China is less than 1 while in the U.S. it is 74; (d) for "miles flown per year" in China it is less than 1 per person while in the U.S. it is 877; (e) we produce one car each year for every 24 Americans while they produce one car each year for every 66,667 Chinese; (f) in the U.S. it takes one and a quarter days earnings to buy a bicycle and in China it takes 67 days earnings, and (g) in 1978 Boeing executed sales agreements with China involving approximately \$200 million mostly for 747STs.

For some reason, all of this reminds me of my favorite bumper sticker: HAVE AN ADEQUATE DAY.

JVW



Whatever Became of Legal Specialization?

At the June meeting of the Board of Governors, implementation of the certification of specialists plan will be on the agenda for Board action. The plan was adopted approximately three years ago at the August 1976 meeting of the Board of Governors but was not implemented at that time. The plan which was adopted calls for a Legal Specialization Board to designate legal specialties and establish criteria for certification. In August of 1976, the *Bates* and *O'steen* opinion had not yet been decided by the United States Supreme Court and the Board was adopting a "wait and see" attitude until the results of that opinion were known.

There are very few current issues in our profession that stir up as much controversy as certification of legal specialists. To give you a brief overview of some of the arguments both pro and con that are made regarding certification of legal specialists, consider the following:

1. Consumer groups feel that in order to give meaningful information to prospective clients, a lawyer's specialty should be public knowledge;

2. The Anti-Trust Division of the United States Attorney General's Office feels that certification of specialists plans may be a monopolistic practice tending to restrict lawyers from competing in certain areas of legal practice;

3. Some lawyers feel that designation as a certified specialist will create a malpractice liability, holding the certified specialist to a higher standard of care;

4. Some lawyers feel that administrative agencies will jump upon specialization plans as preconditions to practice before them. (For example, could you show the requisite due diligence before the IRS or the Securities and Exchange Commission if you were not represented by a lawyer who is designated as a specialist in those areas);

5. Young lawyers tend to feel that any certification plan which requires a number of years of practice in the spe-

cialty will eliminate younger lawyers from practicing in those areas;

6. Lawyers in smaller communities tend to feel that legal specialization plans will tend to center more legal work in the large metropolitan law firms who can afford to have specialists in almost every area;

7. Some lawyers who are in fact specialists want the ability to hold themselves out to the public as having a greater proficiency in their area;

8. Some lawyers who are specialists feel there is no need for certification plans for them since they are already known as specialists and have no problem being known as such;

9. Some lawyers feel that every lawyer should be allowed to self-designate a specialty and suffer the consequences if the designation is erroneous. (It should be noted that the consequences can be severe, such as false and deceptive advertising which may give rise to suits under the Consumer Protection Act and general suits for fraud or misrepresentation, not to mention the malpractice implications); and

10. Some lawyers feel that the law has become so complex in some areas, that only lawyers with demonstrated competence in those areas should practice in that specialty.

The above are only a few of the many arguments and implications surrounding the whole area of certification of specialists. It is undoubtedly true that consumers are entitled to greater information regarding an attorney's competency in certain areas than is now available. The question is the manner in which this information can be imparted to the consumer so that it is accurate, reliable and does not adversely affect competent attorneys who for one reason or another will not qualify or do not desire to be certified as specialists.

Groups which currently demonstrate the most interest in specialization plans are tax lawyers and trial lawyers, although, criminal lawyers and those



practicing in family law have also showed a strong interest in being certified.

The current advertising rules adopted by the Supreme Court on November 9, 1978, provide that a lawyer cannot designate himself as a specialist in a certain field except pursuant to legal specialization rules and regulations promulgated by the Supreme Court. (DR 2-101, DR 2-105). However, DR 2-101 (2) provides that a lawyer may advertise "one or more fields of law in which the lawyer or law firm practices or a statement that practice is limited to one or more fields of law". It can be argued that as a result of the above rule, we in fact have a self-certification program in this state, since it is likely that prospective clients would consider a statement that "John Doe is a practitioner in the areas of tax and securities law" or "John Doe limits his practice to trial work" to be the same as stating that "John Doe specializes" in those areas. That being the case, it would appear that we already have a potential self-designation of specialists plan that does not in any way guarantee the prospective client that the attorney has any demonstrated skills in those areas.

The real issue that will be before the Board in June is whether it is in the best interests of the public and the lawyers of this state to allow certain attorneys to use the phrase "certified specialists" based upon a demonstrated ability in an area of the law, and if so, whether we are prepared to deal with the changes in our profession that will flow therefrom.

Del E. Hoff

WHERE ARE THE LAWYERS IN THE PEOPLES REPUBLIC OF CHINA?

by Edward E. Henry

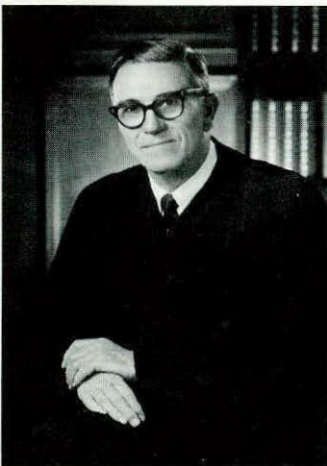
"Where are the private lawyers in China?" I asked a judge of the Higher People's Court of Shanghai, "Where can we meet them?"¹

"Ah, lawyers," he responded, "right after the revolution we abolished the legal system that existed and established a people's legal system, and the profession of lawyers vanished into thin air."

"They were tools of the capitalist imperialism," a woman judge interjected. "When the land was returned to the people, the lawyers representing the landlords demanded compensation for the land to be paid to the landlords. They were wrong. The land belonged to the people and had been stolen from them."

"Before the revolution [in 1949]," continued the male judge, "only one-fourth of the population could read or write. Now over 90% can do so. They can read the law and regulations. Lawyers are no longer needed."

"Who represents a person in a civil or criminal case?" I asked. "The accused may have his friends, fellow worker or member of his family represent him in a criminal case," he replied.



Edward E. Henry is a retired Judge of the King County Superior Court who traveled to China in October, 1977, as a member of the Mayor of Seattle's Hospitality Committee.

"In civil cases, lawyers are not necessary," he added. "There is no private property in China now. Family problems, divorce and inheritance can be settled by mediation with the aid of the worker's committee."

After the revolution of 1949, a legal system similar to the civil law system in the Soviet Union was established. It seemed too technical for the Chinese and subsequently the present system was established.

Four Tier Court System

The Chinese court system has four tiers: At the top the Supreme People's Court in Peking; next, in each province and the three largest cities, the Higher People's Court; next the Intermediate People's Court, with jurisdiction over an area of about ten counties; at the lowest level is the Basic People's Court, where most of the cases, civil and criminal are tried.

Although the Chinese judges I met indicated trials were public,² we were not able to visit one except a sidewalk traffic case I observed one morning in Peking.

The customary procedure in a criminal trial is for the three member judicial panel (one judge and two people's assessors) to study the evidence after receiving the indictment from the procurator. The panel would then go to the scene of the crime, interrogate the witnesses, the victim and the accused, to verify the evidence obtained by the police.

The most important standard of interrogation in China is for the accused to admit his guilt. Consistent with the teach-

1. Conversation with Higher People's Court Judges of Shanghai, Li Hai Chin and Sun Kei Feng. Before going to China, I had written to the Supreme People's Court in Peking requesting the privilege of observing a trial in China. As a result, these judges came to our hotel in Shanghai and spent several hours describing the Chinese legal system to us.

2. One of the very few trials that has been witnessed by foreigners was one by a group of lawyers and judges, including Judge Jerome Farris of the state Court of Appeals, in April, 1977, in Peking. In this issue of the *Bar News*, Seattle attorney Robert Rohan describes a Chinese civil trial he observed in March of this year.

ing of Confucius favored during an earlier period, the present system recognizes that no one knows better who has committed an offense than the one who did it.

Confessions: From Torture to Persuasion

In ancient China the magistrate, appointed by the emperor to try the case, had the reputation among the peasants of being corrupt, ignorant and lazy. It was customary for him to favor the rich as against the poor. Confessions were normally obtained by torture. The accused would be required to kneel before the magistrate with his back bare. The police would lash his back with whips and call upon him to confess to the offense charged or he would be held in jail until he did so.³

Since the revolution of 1949, torture is no longer permitted, we were informed; confessions are now obtained by persuasion. The accused would be informed that the court would be lenient if he confessed his guilt. The sooner he confessed the more lenient the sentence would be. On the other hand, he would be informed, "if the masses find you guilty without your plea, the sentence will be severe."

If the judge felt, after the investigation, that the evidence was sufficient to convict, the accused would be brought before his fellow workers or neighbors and the evidence would be read to him.

"Are these statements correct?" the judge would ask.

"Yes," the accused would respond.

"Turn to the masses," the judge would order, "and admit your guilt. Were you victimized by the Gang of Four?"

"I must have been," the accused may respond.

Sentencing and Appeal

Prior to sentencing, the judge would ask those present what their views were. After listening to their views, the panel would recess and confer to determine what the sentence should be. The panel would then return, have the accused brought before them, and announce the sentence and explain to the audience the reasons for the decision.

The accused may appeal to the next higher court if he feels the sentence was too severe. Death sentences (except those determined in a military court) must be approved by an appellate court, we were informed. In such cases the defendant would be held in custody for two years before execution, so that his behavior and history might be studied to determine whether execution may be commuted and a lighter sentence be given.

The following is a summary of the Chinese legal system as I saw it in 1977 and based upon my subsequent research on the subject:

1. The Chinese legal system is an adjunct of the Dictatorship of the Proletariat. The rights of the individual are subservient to the needs of the state.

2. Because of the operation of the revolutionary committees and their mediation or dispute-settling function, resort to courts in civil matters is minimized.

3. The writer on a trip to China in the 1920's, while an officer in the Merchant Marine, observed such procedure before an English Judge in his robes in a court in Kowloon in the British colony of Hong Kong.

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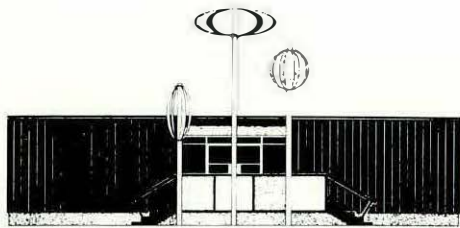
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3. There is no place in the criminal or civil law system for the private practitioner. Legal education produces judges, law teachers, legal draftsmen and law-trained administrators.

4. Under the present system there is substantial equality of opportunity and rights of both men and women.

Will Lawyers Emerge Again?

Recent indications of a change in political philosophy in China, as a result of the influence of such persons as Vice-Premier Teng Hsiao-ping, suggests the possible tightening up of the legal system "to insure stability and unity inside the country and the attainment of the four modernizations."⁴

At a forum of 160 scholars and jurists on "Democracy and the Socialist Legal System" held in October, 1978, by the Law Institute of the Chinese Academy of Social Sciences; several improvements in the legal system were suggested:

—Bring out a criminal law, a law of criminal procedure and a civil law as soon as possible; . . . set up arbitration bodies to settle economic disputes and handle lawsuits.

—Draw up and improve various rules and regulations used in international intercourse such as those relating to the sea, contracts, patents and trademarks, and set up relevant judicial organs.

—Strengthen the various bodies concerned with the legal system; *re-establish the Bureau of Legal Affairs* under the State Council and the Ministry of Justice, set up an institute of jurists and *rehabilitate the lawyers' association and the jurisprudence publishing house*.

It remains to be seen whether these developments will lead to the re-emergence of private lawyers in China. At present, there seems to be no place for private practitioners in the criminal or civil law systems of China. As noted previously, legal education there has produced only judges, law teachers, legal draftsmen, and law-trained administrators. Of these individuals, until very recently, only the judges would actually work in the courtroom (though there have been cases reported by foreigners involving part-time representation by law school instructors).

Changes which have been reported as developing in China's legal system since my visit to that country in 1977 (described in the articles by David M. Shelton and Robert J. Rohan in this issue of the *Bar News*) may foreshadow a softening of the official, and the public's, view of lawyers. Although it is unlikely that private practitioners will re-emerge, there may be a significant increase in the courtroom representation of parties by "part-time" trial lawyers who are full-time law teachers or researchers.

Financial cost could be a major factor in slowing the reappearance of lawyers in China. "The investment of state resources required to educate and employ the personnel necessary to operate a [formal legal] system for a billion people will be very substantial", Professor Jerome A. Cohen, director of East Asian Legal Studies at Harvard Law School, wrote in the *ABA Journal*, October, 1978. "To the

4. Xing Zhong, "Judicial Organs and Judicial Procedure in China," *Beijing Review*, No. 2, January 12, 1979, pp. 35.

extent that China, a poor developing country, allocates resources to its legal system, it will have less to devote to its other needs—training engineers, hiring agricultural economists, purchasing weapons.”

It will be fascinating to watch the developments in China during the upcoming years, and, especially, to follow the re-introduction of lawyers into the legal system. □



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CHINA'S LEGAL REVOLUTION BEGINS

by David M. Shelton

The law business is booming in China today. Such concepts as "individual rights," "the rule of law," the primacy of written law, and an "independent" judiciary are being hotly debated. "Legal workers" dust off 15-year old drafts of commercial and criminal codes and resume their writing work.

One illustrative index of this current interest in law is China's weekly English language periodical, *Beijing* (Peking) *Review*, a cross between *Time* magazine, the Congressional Record and White House press releases. The word "law" (let alone "legal system", "court decision", "trial", or "judge") rarely could be found in the pages of the *Beijing Review* before the Summer of 1978 when it began to appear regularly. Now, a common headline reads: "Strengthening China's Socialist Legal System."

The boom's existence in China, however, does not carry with it the same implications it would have in our country for private lawyers, of which there are apparently none in China, or for judges, of which there are relatively few. Rather, this new movement now is most meaningful for legal researchers, code drafters, law instructors and law students.

China's law boom has the following primary ingredients:

1. *Codification* of criminal and civil laws and economic regulations.
2. *Procedural protections* such as public criminal trials and independent police, prosecutorial and judicial organs.
3. *Training* of lawyers, judges and legal technicians in law schools and institutes.
4. *Legal research* resuming in law schools and legal institutes after 13 years of inactivity, with the revival of law

journals expected any day.

5. *Enhanced status of judges* and legal workers caused by the wide publicizing of their work, and the apparent assignment to them of significant dispute resolution tasks.

Boom in Law Business Coincides with Modernization Movement

China's current leaders say strengthening the legal system will create a more secure environment for greater productivity after the years of chaos and uncertainty which began with the Great Proletarian Cultural Revolution in 1966. "Stability and the Four Modernizations [industry, agriculture, science/technology and national defense] are now uppermost in the minds of the Chinese people," an editorial in the March 23, 1979 *Beijing Review* stated.

"Mao's successors are engaged in a comprehensive campaign to restore the morale, enthusiasm, and productivity of the articulate segments of the nation whose active efforts are essential if China is to fulfill its ambition to become a modern, powerful socialist state," Professor Jerome A. Cohen, head of Harvard's East Asian legal studies program, wrote in a recent issue of *Asia* magazine. "Not only intellectuals but also bureaucrats and workers . . . want reassurance about their personal security. So long as fear of arbitrary action persists—and the Peking media concede that fear has been rampant for years—one cannot expect officials to take bold initiatives, scientists to innovate, teachers to present new ideas, and workers to criticize the bureaucracy."

Thus, the role of a formal legal system is apparent. Though Chinese leaders have concluded that certain minimum guarantees of individual rights are essential to promote China's development, how far China will go toward developing a full-scale, formal legal system, with all of the elements found in Western nations, cannot be predicted.

David M. (Mac) Shelton, a partner with MacDonald, Hoague & Bayless in Seattle, practices criminal and personal injury law. He is a graduate of Oberlin College (1966) and the University of Washington Law School (1970). He visited China in May, 1978, as a member of a Friendship Delegation of the U.S.-China Peoples Friendship Association. A member of the Association's Seattle Steering Committee, Shelton will return to China in November to lead a tour of American doctors.

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Codification/Legislation Drive Is Best Evidence of New Direction of Law in China

There is virtually no written law in China today. The contrast with the United States' legal system cannot be underscored enough. This situation is changing rapidly.

I was one of a number of foreign visitors to be granted in-depth interviews with Chinese jurists during the Spring and Summer of 1978. In all of these interviews, we were told that codification and new legislation could be expected soon (as well as the blossoming of the legal system in many other ways) but no precise timetable was offered. Visitors familiar with China's legal history remain skeptical as to how serious this new commitment actually is. Although the promised codes have not yet emerged, developments during the first months of 1979 confirm the statements made by the Chinese jurists last year.

First, countless articles in the Chinese press describe the new wave of law drafting.

Second, the "Committee on the Legal System" has been established within the National People's Congress (NPC) to supervise working departments organized "to study the drafting . . . of criminal law, criminal procedure, civil law, marriage law and economic and other laws and regulations."

Third, new written law has appeared. The NPC Standing Committee has approved in principle the draft of a "Forestry Law" and has adopted an arrest code, "Regulations Governing the Arrest and Detention of Persons Accused of Crimes", explicitly defining the conditions necessary for making arrests

and the scope, conditions and duration of detention of the accused.

Court System Assumes New Importance and Legal Research Resumes

If developments now in gestation actually materialize, Chinese courts will assume a prominent role in China's political and economic life for the first time since Liberation in 1949. Such a prospect caused a high-ranking jurist I interviewed in Beijing to remind me of a child excitedly anticipating Christmas. Chiang Wei-Hsin is Deputy President of Beijing's Higher People's Court (jurisdiction: provinces and municipalities, such as Beijing, directly under the central government) which is at the third level of a four-tier court system topped by the Supreme People's Court. At the first two levels are the "intermediate people's courts" (prefectures) and the "basic people's courts" (counties).

"We're now freed of the mental shackles of the Gang of Four," Judge Chiang proudly declared. "Now we will build up and strengthen legal theories which are needed for the socialist legal system." He chuckled freely as he said: "During the Cultural Revolution we judges were called 'old-time judicial workers'. The Gang of Four [Mao's widow and three political allies arrested in the fall of 1976] said we had achieved nothing and they didn't allow us to do legal research and whoever did research would be labeled people's hat factory." [An apparent reference to the dunce caps which were placed on the heads of the Gang's opponents when they were paraded in public during the Cultural Revolution.]



David M. Shelton, Seattle lawyer, is pictured with Chinese jurists who briefed him in Beijing (Peking), (l. to r.) Judge Wang Hsu-Wei, Civil Judge of the Intermediate People's Court of Beijing; Shelton; Chang Si-Han, Chief of the Secretariat of the Higher People's Court of Beijing; and Judge Chiang Wei-Hsin, Deputy President, Higher Peoples Court of Beijing. "We are all legal workers," Judge Chiang said.

Photo by Ed Laing



Judge Chiang Wei-Hsin said, "Now we will build up and strengthen legal theories".

Photo by David M. Shelton

"Many judicial workers were sent away to the country by the Gang of Four," Judge Chiang explained, "and some of our documents and data were lost or destroyed." It was during the period when some of Judge Chiang's colleagues were in the "country" that an editorial appeared in China's most prominent daily newspaper, entitled "In Praise of Lawlessness", which condemned law as a bourgeois restraint on the revolutionary masses.

All university law departments and legal publications were closed down in 1966. The first department was not reopened until after 1972, but the course of study was very limited. Not until 1977 was serious legal research commenced again in courts, law departments and legal institutes.

Reportedly, law societies have been among the many academic societies which have been reactivated since the arrests of the Gang of Four. But the resumption of legal research (with the prospect that publication of legal journals will resume any day now after a thirteen year hiatus) is only part of the reason for Judge Chiang's excitement, as illustrated by the following summary of recent developments in criminal and civil law.

Constitutional Guarantee of Public Trials and Restoration of Procuracy Highlight Criminal Law Developments

The 1978 Constitution reinstituted the "procuracy", a prosecutorial organ which has been theoretically independent of and separate from the public security (police) organs, but which has traveled a rocky road since the early 1950's. For only brief periods has the procuracy ever exercised substantial supervisory powers over the legality of actions by other state organs. Under the 1975 Constitution (adopted a year and a half before the Gang's fall) the functions and powers of the procuracy were officially bequeathed to the police. Thus, with this history in mind, commentators have taken a wait-and-see attitude regarding the true independence of the present procuratorial system.

Today, the police, procuracy and courts have their own functions and "complement and restrict each other," as the Chinese say. The police investigate criminal cases, detain suspects and make arrests. "Chinese citizens cannot be arrested without approval by the procuracy," Judge Chiang explained.

Then, the procuracy must examine proposed charges (in a "memorandum of indictment") presented by the police and finally decide whether to file an "indictment" with the court. A procurator's presence is required at a public trial (mandated by the 1978 Constitution) and should his or her evidence against the accused be considered insufficient by the court, the case may be returned to the procuracy for substantiation. Finally, both the procuracy and defendant can appeal court decisions.

Criminal Trials Emphasize Education of Public and "Re-education" of Defendant

At trial there is no jury, but two "people's assessors" sit with one judge (who wears no robe or uniform) to form a panel with each member having an equal vote. The people's assessors are elected at the local level and serve parttime, somewhat analogous to jurors in the United States.

As for procedures at trial (which are held in a courtroom or in the defendant's workplace), there is no privilege against self-incrimination but, according to the President Chiang Hua of the Supreme People's Court, "to obtain confessions by compulsion and then give them credence is strictly prohibited." The defendant has the right to be represented by counsel (usually a law school instructor). Witnesses can appear for the defendant but it is not known whether there exists a

subpoena power for the defendant. Finally, recent reports indicate defendants are being permitted to excuse members of the three-person panel who he or she feels will be "unfair."

Though most of what American lawyers would consider to be the minimal ingredients for a fair fact-finding hearing are present, there is no evidence that "trials" in Chinese courts are yet being utilized to determine guilt or innocence. In nearly all reported cases, the defendant has made a confession before the trial. A true "first" will have been achieved by the foreign visitor who can return home to tell of witnessing the acquittal of a defendant. Such an event would indicate the genuine expansion of the trial court's role beyond its present function as a sentencing panel and education-propaganda organ.

This comment is not intended to belittle the trial courts which very commendably have achieved a high level of community participation in the criminal trials. Professor Derrick A. Bell, Jr., of Harvard Law School, recently commented on this phenomenon: "One can only wonder at the result if Americans tempted to break the law understood that, if apprehended, they would be castigated at length at their trials by their peers in the community and perhaps sentenced [not to prison but] to work under their constant scrutiny."

As Professor Bell's comment implies, community participation in the trial is a double-edged sword for the defendant. The castigation for wrongdoing is often severe, but the common offer of fellow workers and neighbors to help redirect the life of their wayward colleague is genuine and enthusiastic. In most instances, the courts work hard to arrange a probation plan which permits the community to supervise the "re-

education" process. In sentencing, as in American courts, leniency is extended to those who confess their crimes and display a contrite, apologetic attitude in court.

Commonly, the judge uses the occasion of sentencing to educate the spectators about the value of such themes as putting the public interest above the fulfillment of individual needs and the necessity of ideological transformation through the study of Marxism-Leninism and Mao Zedong (Tse-tung) Thought.

The Chinese proudly present the successful results of their policy of "combining punishment with leniency and reform through labor and ideological education." The Chinese press often describes the final release from sentences of former reactionaries who have mended their ways. This approach is even applied in death penalty cases in which there is a policy and practice of delaying execution for several years to give the defendant an opportunity for reformation in prison.

People's Liberation Army Revives Military Courts

The criminal law revolution also has touched the People's Liberation Army (PLA). *Beijing Review* reports that the courts-martial system has been revived after many years of suspension. The army procuracy will also be restored. It is reported these military courts are being set up "in compliance with the Constitution [of 1978] and the laws governing the organization of the people's courts and procuratorates." Three officers received lengthy prison terms in what was apparently



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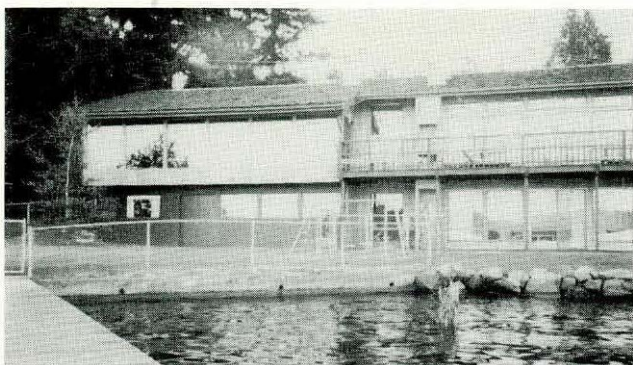
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Conciliation-oriented, Nonadversarial Philosophy Dominates Civil Cases

"Any person whose rights have been infringed upon or who is involved in a dispute with others, may bring a suit to the court," a jurist wrote in a recent *Beijing Review*. Despite this seemingly open-ended invitation for use of the courts by Chinese citizens, civil court cases are relatively rare because of the principle of "conciliation in most cases." A nonadversarial process starts at the grass roots level where neighborhood mediation committees successfully resolve most disputes (inheritances, divorces and child custody disputes monopolize the dockets of these bodies and the courts).

This nonadversarial approach continues when a dispute is brought to court. Judges bend over backwards to avoid pronouncing a verdict which is compulsory on the litigants. At trial, the court will urge the parties to agree on a compromise. The Chinese say such a result will "strengthen unity among the people and promote voluntary observance of socialist law."

Three additional factors contribute to a nonadversarial process: the situs of the trial, the absence of lawyers, and the relative absence of material goods to fight over. Most civil trials are not held in a formal courtroom but rather at or near the site of the dispute—in a factory or community center, for example. Next, there simply are no private lawyers available in China to argue civil cases. Elsewhere in this issue of the *Bar News*, Judge Edward E. Henry discusses the status of lawyers in China. In addition, Robert J. Rohan reports on a decedent's estate trial observed in March, 1979, in which two government lawyers were appointed by the court to represent the parties. It is not known whether this represents a new trend in civil cases.

Finally, despite China's worldwide impact in the political and economic spheres, giving it apparent "big power" status, it remains a poor country whose citizens have few of the material goods common in the United States. A typical decedent's estate case centers around a few items of furniture or a bicycle. There are no private automobiles in China and thus personal injury claims mostly arise out of bicycle accidents which are usually settled on the spot by a police officer who orders the wrongdoer to compensate the injured person. Reportedly, this administrative determination is rarely questioned in court.

Major Changes Loom on Horizon for Civil Courts Because of Economic Modernization

The Chinese leadership recognizes that their modernization drive will require changes in economic rules and regulations. A spokesperson for the Party Central Committee recently declared "some 30 codes and regulations need to be revised or drafted right away." These include laws governing the people's communes, safety in factories, awards for inventions, technical innovations, fulfillment of contracts, protection of forests, grasslands and the environment. Envisioned is a two- or three-year, intensive program of revising old laws and

drafting new ones.

"Disputes and lawsuits" between various enterprises are expected and thus "judicial organs will be established to arbitrate disputes." It is not known whether the now existing court system or a new arbitration system will be utilized.

A contract system is being used in many areas of the economy, and this is encouraged. Simultaneously, new types of specialized enterprises are developing and banking practices are changing. The Chinese acknowledge that these developments are bound to result in complicated, controversial disputes involving the interests of the state, the enterprises, workers and consumers.

In a major statement in late 1978, the President of the Chinese Academy of Social Sciences, stressed that "prompt, impartial and correct settlement of these issues . . . handled by judicial organs according to law" is necessary or "things may go back to the old way of relying on purely administrative means." He elaborated: "We now have a contract system for ordering goods all right, but it is merely a matter of formality as many contracts are never fulfilled . . . [because regulations] are not legally binding." The regulations must be given a more "rigid form," he said and be "widely publicized among the people." In concluding, he stressed the need for "economic judicial organs that will deal with things conscientiously and strictly and mete out proper punishments to all enterprises and individuals for violating these laws."

Finally, foreign trade is essential for rapid modernization and as it grows so, too, does China's need for specialists trained in international business law, for China's own rules of

international intercourse and judicial organs to handle disputes under those new rules.

Is China Steering Clear of True "Legality" in the Anglo-American Sense?

Some experts on Chinese law question whether China is moving toward true "legality" in the Anglo-American sense of the word, but the evidence thus far does not clearly point toward any one conclusion. The most common point of view is that, despite the promulgation of codes and the increased activity of the courts, the Communist Party reserves the right to disregard state law and it probably will continue to do so in the future if it believes that its vital interests are at stake. The 1978 Constitution sets forth the principle that the Party is in control of all state organs, including the judiciary. The 1978 Constitution does not reintroduce the principle of judicial independence from political control found in the 1954 Constitution.

Some support for this view of Party dominance is found in an intriguing account of an interview at the People's Supreme Court by an American Bar Association delegation in July of 1978: "The appellate process described by the supreme court's vice president was unlike any in our experience. The prime effort, he said, when the supreme court's view differs from that of the court below is to reach a consensus. If the lower court insists on its opinion (ordinarily, it does not), the final arbiter is a provincial or national Communist Party committee . . . [which] usually decides in favor of the supreme court's proposed disposition."



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Further, Chinese press accounts during the past year indicate the Party is assuming the responsibility for correcting miscarriages of justice (which an Anglo-American lawyer would say properly is a function of the judiciary). During the past year, numerous people have been released from jail and exonerated of false charges but, in virtually every such case, the organ which rights the wrong was a Party committee—not a judicial body. "Inspection commissions" have been set up within the Communist Party throughout China during the past year with the following mandate: "All false charges, wrong sentences and frame-ups should be corrected and the victims rehabilitated. . . All wrong verdicts should be reversed."

Despite this continuing interest by the Party in criminal justice, there is evidence that the foundation is being laid for narrowing the sphere of Party involvement in the administration of justice. The highly publicized drafting of criminal law codes and the holding of public trials are two indications. Recently touted has been the courts' special power of "Judicial Supervision" to rectify *any* error in *any* criminal or civil verdict "even after it has become legally effective."

Furthermore, at least one high-ranking Party member, Ye Jianying, Chairman of the Standing Committee of the National People's Congress, suggests a possible heroic martyr's role for judges to play in the building of China's new legal system: "There must be fearless procurators and judges who are ready to die to protect the dignity of the socialist legal system," he said in a February, 1979 interview. "The Courts must serve the people's interests, faithfully abide by the laws, rules and regulations, keep to the facts and maintain their *independence as is appropriate*." (Emphasis added)

It is notable that the status of the judiciary is being given a boost by productions on stage and screen which depict heroic judges who reverse the convictions of innocent persons. Finally, the Chinese press has given prominent play to the many reports of public trials now being held throughout China.

Conclusion: Bright Outlook for Socialist Legal System

The contrast is marked between the state of "the law" in China today and the situation only two years ago. Then, China had an essentially administrative system for maintaining public order and resolving business disputes, rather than a formal legal system. No lawyers practiced in the courts, no significant legislation had been produced for a decade and "the law" as a critical force in society was rarely mentioned. Today, the courts, law schools and legal institutes are very active and China's citizens daily proclaim the need to build a "strong socialist legal system".

A few commentators somewhat cynically note that "politics will continue to take command", as the Chinese say, in that the legal system will be a tool not only to maintain public order and stability during the current modernization drive, but also to heighten the popularity and authority of the present leadership. But whatever the underlying reasons for the current developments, there is little argument with a recent comment by the *Beijing Review*: "China enters a new historical period. Socialist democracy and the socialist legal system have had a rough time in the past, but the outlook today is bright." □



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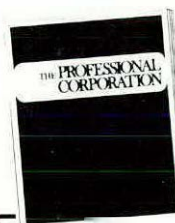
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First Hand Report of a Chinese Trial

A SOCIALIST DISPUTE OVER PRIVATE PROPERTY

by Robert J. Rohan

The Trial

I entered the People's Republic of China on March 1, 1979, the day the United States normalized relations with China, with a group of twenty American lawyers who were invited by the Chinese government to study its legal system. For the next two weeks, we had discussions with judges from all levels of the People's Republic of China's ("PRC") justice system, ranging from the Basic People's Courts to the Supreme People's Court. I also spoke with members and leaders of mediation committees of local Street Committees, the equivalent of a community group or block association in the United States. I learned that between 80% and 90% of all disputes in the PRC are solved by mediation — mainly through these local groups of non-professionals. These figures are a little misleading, however, because at present there is little necessity for commercial litigation since most businesses are state-owned (and thus no anti-trust problems!).

The high point of our tour was the opportunity to attend a trial involving the rights to inherit property. We were the first foreigners to observe such a trial since the start of the Cultural Revolution in 1966, and it was quite an exciting experience.



Robert J. Rohan is an associate with the Seattle law firm of Schweppe, Doolittle, Krug, Tausend & Beezer. He traveled in the Peoples Republic of China from March 1 to March 12 of this year as part of a delegation from the National Lawyers Guild. He is interested in China and international trade. His practice is primarily litigation.

"Be quiet. No smoking. No moving around. If the lawyers or parties wish to speak, they must raise their hands." *Rules of the People's District Court, Jian Han District.*

The open trial was held in the high-ceilinged courtroom of the Civil Division of the People's District Court, Jian Han District in Wuhan. Wuhan, a large industrial city 1,000 miles southwest of Beijing (Peking), is the center of the second largest iron and steel complex in the PRC. It has a population of 3.6 million, but has only had five civil trials in the first three months of 1979.

The plaintiff, Wu Ching-li, 25, was a widow whose husband was killed by a moving locomotive while at his job at the Wuhan Iron and Steel Works. Her complaint was that her mother-in-law, Shi Sho-ching, had taken possession of several items belonging to Wu and her husband. The property consisted of two watches, a bicycle, a wardrobe chest, a study table, a wooden couch, several chairs and the man's clothing.

The issue involved the inheritance rights of the heirs. Unlike the United States, China has no formal system of wills or probate and, when disputes arise among the relatives, they rely on family harmony and mediation to solve these conflicts. The dispute here involved the mother, wife, and infant son of the deceased.

Immediately prior to the trial, Judge Yien Huei-min explained that the law to be applied was Articles 12 and 14 of the Marriage Law, which specifically deals with inheritance. Article 12 states: "Husband and Wife have the right to inherit each other's property." Article 14 reads: "Parents and children have the right to inherit one another's property." Tried to an American court, this would raise a question of statutory construction, and the lawyers for each side would research and file legal briefs. The parties here were presented by lawyers, but there were no briefs and no citation of authorities to the court. In fact, the lawyer's role was minimal and did not include either direct or cross examination of witnesses.

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The court's role was to render a decision based on the facts, the values of the community, and the effect of this trial on the behavior of other citizens.

Judge Does Not Decide Case Alone

There was already a crowd of over 200 Chinese when I entered the courtroom. A three-seat elevated platform dominated the front of the room; the seat in the middle was for the Judge, and the other two seats for the People's Assessors. The assessors usually are elected popularly and are not trained in the law. One assessor had graduated from high school in 1973, and from 1973 to 1975, during the dislocations of the now criticized Cultural Revolution, she was sent to work in the countryside. She became a factory worker in 1975 and was also an assistant to the People's Defense Division (militia) in her factory. At 22, she was the youngest member of the Court.

Both she and the other assessor, a 35-year-old male, had been elected by the District People's Congress (a group roughly analogous to the King County Council) to serve a two-year term. They were expected, however, to continue working at their factory jobs during their term, keeping them in close contact with the views of their co-workers and their community. This fulfills the purpose of the assessors, which is to prevent the domination of the legal system by a bureaucratic elite and to inject the popular opinions ("mass line") into the court's rulings. The Judge was appointed by the Chinese Communist Party at the District level. Each of these three people has an equal vote in the Court's decision, and, since a majority decides, the assessors have the controlling voice.

"Seeking Truth From Facts"

The Clerk of the court announced: "Let's begin the Civil Division." Judge Yien read the names of the parties, introduced the People's Assessors and said that, in accordance with the Chinese Constitution, the Court would use them to reach its decision. Turning to the parties she instructed them: "If you have facts and argument you can speak freely now, but speak in the spirit of seeking truth from facts." This is a reference to a famous discussion of Mao Tse-tung on handling conflicts among the people.

"Law Must Protect Private Property"

The widow rose first and spoke. "I am a factory worker," she said, "and have just finished a period of mourning. I married an iron and steel worker from Wuhan. We had a baby boy born to us. After one year of marriage my husband died. I was very sad under the heavy load of keeping a baby and the passing of my lover."

"I don't want to bother the court," she continued, "but I could not solve the problem in the family, so I bring my complaint here. After my husband died, my mother-in-law took all of his clothes and wanted to take all of his property away. I think my child and I share the only right of succession and sister-in-law and brother-in-law have no right to take. Law must protect private property of our population so I must insist I have it."

Wu is near tears. Her voice is shaking and a woman three seats from me is crying. Wu says: "The Mediation Com-

mittee tried very hard for two weeks to solve the problem, but was unable to, so we had to come to court. I hope the court will give me a fair decision."

At this point, Wu described the property in dispute. These items — furniture, a bicycle and a watch, plus bedding, cooking utensils and a few personal mementos — are often the only possessions of a Chinese citizen. A bicycle alone costs 240 yuan (\$144) and a factory worker must save for a long time before he or she can put that much aside out of the average monthly wage of 50 yuan (\$30). Usually, however, both husband and wife work.

One assessor asked: "When did you buy these things?" Wu replied, "I bought the bicycle after we were married. My mother gave me 200 yuan to buy things for my marriage. Our family bought another bicycle after we were married."

Accuses Mother-In-Law of Using Political Influence

Wu pointed out that her mother-in-law's pension and income from her position on the Street Committee exceeded Wu's salary — and Wu had a baby to raise. The trial began to heat up when Wu accused her mother-in-law of abusing her position with the Street Committee, the smallest unit of local government, and forcing her out of the house they share: "My mother-in-law tried to drive me out of the house. We cannot have this in the new society. Our house is a state house so we have the right to live there. My mother-in-law must not abuse the responsibility of her position with the Street Committee. So I demand that before my factory gives me a new house, I have the right to live here."

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Then, the 62 year-old Shi Sho-ching rose to answer her daughter-in-law's charges. "I come from the old society," she said referring to the period before the Communists took power in 1949, "and I am illiterate. My daughter-in-law has misrepresented facts. She abused me and her parents supported her in this." The old woman was very emotional and spoke very rapidly. "When my son was alive, Wu ran out at night to the opera and the movies, and my son had to stay home and care for the baby."

The judge interrupted at this point: "Don't get excited, present the facts slowly. Don't go too fast — concentrate on the questions of property and stay away from family problems."

As Shi continued to tell her story a few women in the audience started to cry, but soon most of the audience was laughing when she claimed that Wu "only married my son because he is handsome."

"Please confine your comments to the facts!" the Judge interjected.

Crowd Laughs at References to Communist Party

The crowd also laughed when Shi explained that she always listened to the Communist Party, and followed the Party and then began to recite some Party slogans. I was impressed that the Chinese in the audience felt comfortable enough to laugh in rejection of these references to the Communist Party as an obvious attempt on Shi's part to use her political background to curry favor.

Back and forth, for over a hour and a half, the parties traded charges and countercharges. Shi continually jumped up crying, "I must speak, please give me the right to speak!", while Wu and her lawyer were speaking and, more than once, the Judge demanded that Shi remain seated and wait until it was her turn to speak. At one point, a member of the People's Security Organ (police) gently put her back in her seat in an effort to have an orderly hearing. And when Shi's entire body began to shake as a result of this emotional ordeal, a woman appeared from the back of the courtroom to bring her some tea to help calm her down.

"You Want to Drive Me to My Death"

By the end of Shi's testimony she was screaming at her daughter-in-law: "You want to drive me to my death, and take my property away. I must keep myself in good health so that I may strive for the Four Modernizations." The crowd again laughed at this reference to the current campaign to modernize China, as Shi continued, "you will not drive me to death. I am illiterate but I have the spirit of seeking truth from facts. I have seven children. I may be illiterate, but I can speak. And her family have all behaved very badly toward me. They have always abused me."

"All people are equal under the law," Shi exclaimed, "this is not the old society. In the old society only the rich could go to court. Now, under the new constitution, we can all go to court."

Parties Rebut the Lawyers

The Judge summed up the issues in the case and asked the

lawyers for each side to speak, which they did very quickly. This is the first time during the proceeding that the lawyers had played a part. I later learned that this was the plaintiff's lawyer's first court appearance in her fourteen years as an attorney.

The defendant's lawyer succinctly stated his client's case:

I was Court appointed and invited by the Defendant. The organic law, Article 41 of our Constitution, says that the Defendant has a right to appear with counsel. I have investigated all of the necessary materials, met with the Defendant, and investigated the neighborhood. On the basis of the facts, the Plaintiff says she has the only right to property.

The question is who shares the right? According to Article 12, the wife has the right, but Article 14 says the parents have the right. So all three are legal successors. In the list of priorities, the wife was first. I don't dispute this. But the wife cannot negate the mother-in-law's right.

The Socialist Legal System recognizes a parent's right, because the parent raised the child. Article 13 of the Marriage Law says that parents have the right to bring up and educate their children, thus they have a right of succession. There must be rights which correspond with the parents' duties. The Defendant raised her son for 27 years and this was very expensive. So the Plaintiff cannot get all of his property.

Children should respect and take care of their pa-

rents. The Plaintiff's behavior causes a bad influence in society so she should not get all of the property.

It's true that the Defendant has money, but this shows our Socialist priority for old people. They have a right to retirement pay. The fact that she gets a pension does not mean that she has no right to her son's property. Besides, the Plaintiff has a job and gets State aid. Wealth does not defeat succession. So both must share—all our people are equal under the law. This is the only way to safeguard the Socialist Legal System.

We must distribute the property according to the specific conditions of both sides. Under the law, the parties are equally situated. The Plaintiff makes less money, true, so in distributing the property, she should get more. The Defendant should get a small proportion. It is the right of the Court to give a fair distribution."

The guiding principle of civil disputes is to solve problems in the interest of unity, Socialist construction, and modernization.

Then, in a procedure totally foreign to me as an American lawyer, the parties were given a chance to rebut each other's lawyer's comments!

Again, the mother-in-law repeatedly jumped up and tried to shout down Wu, her attorney, and even the Judge. When Wu pointed at her mother-in-law shouting "She abused me." Shi yelled right back, "I didn't abuse her at home but I want to abuse her now." Another member of the Public Security organ emerged from the crowd, unarmed as all the police



THE TRIAL BEGINS: Judge Yen Huei-Min (center) is flanked by two People's Assessors.

were, and stood by the plaintiff to protect her from possible physical assault from the enraged Shi. Luckily, before the situation deteriorated any further, the parties finished their testimony, and the Court recessed to decide on a verdict.

During the twenty-minute recess, I spoke with several members of the audience. "This is a very small matter," a woman said to me, "but if it is not handled correctly it could affect the whole community." Another told me that he was from Wu's factory, which produced post office materials, and had come along with most of the other members of the crowd to see that a correct decision was made by the Court. He and his fellow workers had taken the day off from work without pay.

The Verdict

The verdict? The wardrobe chest and study table were awarded to the mother-in-law and the wife received the rest of the property. The man had died on December 16, 1978 and the court made a decision on March 7, 1979, which either party could appeal to the People's Intermediate Court, the next highest level.

Discussion with Judge, Assessors and Lawyers

After the two-hour long proceeding, we were invited to speak to the Judge, the People's Assessors, and the lawyers. The lawyers said that they were faced with a dilemma in handling this matter: they had a duty to represent their clients' rights and interests, which sometimes conflicted with their duty to safeguard the law. Each of the lawyers asked us to

give our ideas on this conflict and to criticize their performance. Wherever I travelled in the PRC, I frequently was asked to give my criticisms and suggestions by many different people, from the porters on the train to the vice president of the Beijing Higher People's Supreme Court.

Lawyers Appointed a Week Before Trial

Wu Ching-li's lawyer had received an invitation from the Court to represent her client one week before the trial. She had three consultations with her client, and went to Wu's factory to discuss the problem with her fellow workers and the factory leaders. The plaintiff's lawyer graduated from the Hupei Provincial University Law School in 1962; the lawyer for the defendant graduated from the Chinese Peoples University Law School in 1954. He has been a professor and lecturer in the Hupei Financial School since graduation.

Judge Investigated Facts Before Trial

Judge Yien has been a judge for 26 years. Prior to this trial, she also had personally investigated the facts and spoken with both parties. During the trial, she asked both Wu and Shi several questions as to the origin of the furniture.

Judge Yien explained that the Court's decision was based on several factors: "First, under the law, both parties share the right of inheritance. But priority should be given to the wife since she is the wife. We must also take the baby into account so the baby gets second priority." She went on to explain that the parties' financial status was important. "The defendant lives well on 40 yuan a month. She also has six

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children to take care of her. They all work. Whether Shi gets the furniture or not will not have a big influence on her family life."

Judge Yien said that the man's factory had decided to increase his insurance proceeds from 400 to 600 yuan (approximately a year's wage), in order to take care of the needs of his wife and mother. With the consent of Wu, a third of this sum was given to her mother-in-law. The reason that Shi received two pieces of furniture was that the court felt that they "had to give her some property to protect her rights as a token, or symbol."

Trial Educates the Audience

This trial was conducted primarily to help educate the local community, and the symbolic gesture of giving some property to the old woman was a necessary part of this process. Studying the audience, I sensed popular approval of the court's decision. A consensus was reached, largely the result of the prior discussions by the Judge with Wu's co-workers, and with both Wu's and Shi's neighbors. The assessors, rank-and-file workers themselves, undoubtedly helped build this consensus. And their presence on the bench, flanking the Judge, surely added to the crowd's feeling that the court arrived at a just result. Our own jury system serves some of these purposes.

"Is It Fair?"

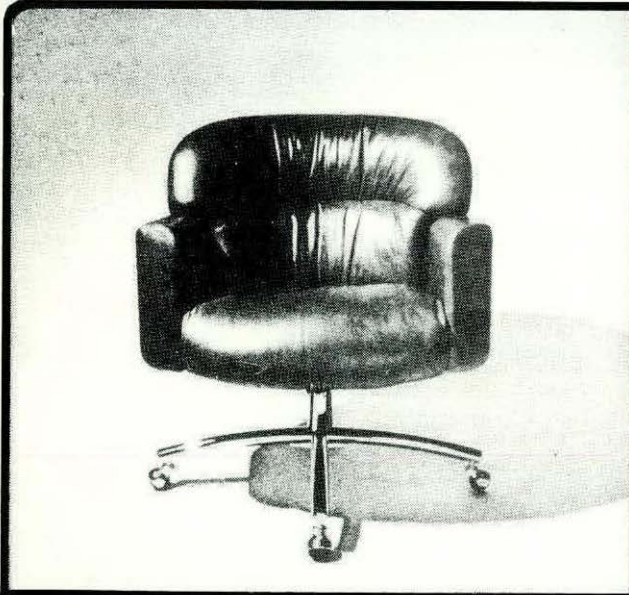
The question I have been asked most often since my return from the PRC is, "Is their legal system fair?" For the average Chinese, accused of theft in a criminal action, or trying to

receive her just inheritance, the legal system is fair. The result is based on the facts, and on well-known and accepted community standards. Evidence of good character, proper attitude and, in a criminal case, willingness to admit wrongdoing and atone, are given a great deal of weight. The reasons behind the crime, or the dispute between the two neighbors, are painstakingly explored — not to arrive at the proper amount of damages for past conduct — but so that in the future the neighbors will live together harmoniously, and the root cause of a theft, be it envy or economic hardship because of a sick relative, can be cured.

The Chinese were very candid concerning their treatment of counter-revolutionaries (defined as saboteurs of the socialist economy and enemies of the people, including Chairman Mao's widow, although the bourgeois are no longer in this category): they are denied their civil rights, including the right to an open trial.

The most impressive part of the Chinese legal system is the successful use of mediation. Every neighborhood, factory and commune have nonprofessionals who try to settle disputes amicably. The Maoist procedures of criticism (by others) and self-criticism, together with community pressure, all combine at trial in an effort to restore harmony.

The PRC's success with mediation is dependent, I believe, on the cohesiveness of their neighborhoods. As China strives to industrialize by the year 2000, and the nation becomes more urbanized and the population more mobile, it will be interesting to see the effect this has on the grass-roots nature of their legal system. □



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Board Debates, Defers Action on Dues Increase

by Jay V. White

VICTORIA, B.C., May 18-19—The Board of Governors has concluded its first round of debate over a proposal by its Budget Committee to increase membership dues in fiscal 1980 with the decision to defer any action on the subject at least until its next meeting June 14-16.

The Budget Committee (Hemovich, Jones, Danielson) has proposed a budget of nearly \$2.2 million based upon a recommended increase in dues from \$75 to \$85 for those admitted to the bar two years or less, and from \$130 to \$140 for all other active members.

This compares to the projected actual budget for the current fiscal year of \$1,963,903.

Increases for 1980 include \$55,000 for bar association staff salaries (roughly 9% increases across the board); modest overhead increases; \$33,592 for the *Bar News*; \$60,000 for computerization of administrative activities; \$10,000 for committees; \$15,000 for legislative activities; \$30,000 for the contingency fund; \$10,000 for trust account and spot audit administration; and \$10,000 for special outside counsel.

Certain budget items are reduced in 1980 in comparison to actual 1979 expenditures (the amount of reduction is indicated in parentheses), including bar office improvements (\$5,000); printing and publications, other than *Bar News* (\$11,500); and Continuing Legal Education (\$131,070).

Bar dues will increase revenue by \$175,412 if the recommended dues increase is approved. This figure includes revenue of approximately \$35,000 which would be generated from an "administrative fee" imposed upon inactive members (subject to Supreme Court approval) of \$35. At present, inactive members pay only statutory dues set at \$2.

In addition, there will be increases in revenue from other activities (budgeted cost for such activities in 1980 indicated

in parentheses), including *Bar News* advertising, increased from \$70,000 to \$90,000 (\$13,592); other publications, \$2,000 to \$3,000 (\$7,500); CLE \$500,000 to \$520,250 (\$368,930 plus \$2,500 for the CLE Board expenses); and Lawyer Referral Service, \$30,000 to \$35,000 (\$20,000).

Anticipated revenue for the 1980 convention is \$100,000, and the same amount is its budgeted cost. (The budget for the convention remains the same as it was in 1978 and as projected for 1979.) Anticipated revenue from the bar exam is \$212,000, which is the same as the 1979 projection, and the budgeted cost of administering the bar exam in 1980 is \$165,886.

For a tabular comparison of the 1979 and 1978 revenues and expenditures, see boxes, pages 30 and 31.

During the course of the Board's debate, several members of the Board, notably Bingham and Holm, indicated they wanted to review the budget figures in more detail before taking action. Holm suggested that the proposed dues increase might not be sufficient, even to maintain an "austerity" budget.

Terry E. Lumsden, an ex officio member of the Board who sits in his capacity as chairperson of the 800-member Young Lawyers Section, pointed out that a \$10 increase for both lawyers practicing less than 2 years and all others, results in the more recently admitted lawyer bearing a disproportionate share of the increase.

This prompted Cressman, seconded by Wesselhoeft, to move for a \$5 increase for the two-year-or-less lawyers, and a \$12 increase for other active members. This was defeated 6-3, with only Jones adding his support for the motion.

It was pointed out that 55% of the membership falls in the category of "young lawyer" (under age 36, or practicing five

years or less), and significantly less than half of them would benefit from a reduced increase of \$5.

Several board members emphasized that the proposed dues increase had been discussed with local bar presidents, including a representative of the Governmental Lawyers Association, and had met with no objection. Nevertheless, the consensus of the Board was that the budget merits further study and that there should be further communication with the membership before any final action is taken.

Accordingly, the Board acquiesced in President Hoff's suggestion that the final vote on the budget and any proposed dues increase be postponed at least until the Board's June meeting.

OTHER BOARD ACTIONS...

■ **MALPRACTICE INSURANCE**—Board Member Paul Cressman, chairperson of the Attorneys Professional Insurance Committee, reported that there will be an increase in the availability and competitiveness of malpractice insurance. At least two companies which do not now write such insurance in Washington are expected to do so. Cressman is preparing a detailed report for the *Bar News*.

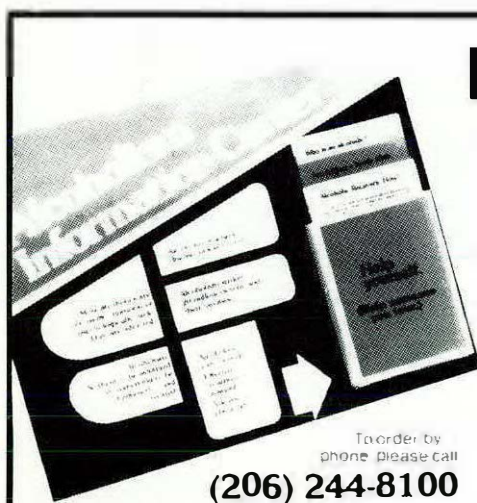
■ **FTC QUESTIONNAIRE**—Seattle attorney Hugh Bangasser, who has been retained by the bar association to examine the legality of a Federal Trade Commission questionnaire directed to bar associations as part of the FTC's investigation of whether there are bar association restrictions upon prepaid legal plans, legal clinics, and comparable entities which contravene the Fed-

eral Trade Commission Act, briefed the Board as to the legal issues involved. (See Editor's Page, *Bar News*, 33:4:8.) The Board agreed that the appropriate course at this time is to negotiate with the FTC concerning possible revisions in the questionnaire.

■ **BAR EXAMINATION ELIGIBILITY HEARINGS**—The Board revised and approved proposed rules to govern hearings before the Board held under certain circumstances to determine whether applicants have satisfied the requirements for eligibility to take the bar examination.

■ **DISCLOSURE OF DISCIPLINARY INFORMATION TO PROSECUTORS**—The Board voted 8-2 (Halverson, Wesselhoeft opposed) to adhere to the present disciplinary rule (DR 11.7) that the Board of Governors will advise the public (including state prosecutors) "of disciplinary investigation or proceedings against any attorney when, in the judgment of the Board, it is determined that the matters involved are of such grave importance that the integrity of the Bar and the public interest are affected thereby." The Board rejected (6-3) an amendment supported by Halverson, Wesselhoeft, and Cressman, that would give affected attorneys notice of the intention to disclose such information sufficient to permit an opportunity for a restraining order against such disclosure.

■ **ADMINISTRATIVE LAW TASK FORCE**—The Board approved in principle a proposal presented by C. Dean Little, chairperson of the Administrative Law Section, to create a task force to investigate the quasi-judicial functions of state administrative agencies. Robert Felthous was named to head the task force and, initially, to make specific recommendations as to its activities and to propose a budget for the investigation. See Board's Work, *Bar News*, 33:4:29.



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**PROPOSED BUDGET — 1979-80
REVENUES**

	1979 PRESENT BUDGET	PROJECTED Actual — 1979	BUDGET — 1979-80
Dues	\$1,000,769	\$ 995,643	\$1,171,055*
Interest	24,000	24,000	26,000
Disciplinary Costs	2,500	2,500	2,500
Bar News Advertising	70,000	70,000	90,000
Publications	2,000	2,000	3,000
CLE	500,000	500,000	520,250
Bar Exam	212,000	212,000	212,000
Rent	34,345	36,396	36,000
Fee Arbitration	1,000	500	1,000
Convention	100,000	100,000	100,000
Lawyer Referral		30,000	35,000
	\$1,946,614	\$1,973,039	\$2,196,805

*This contemplates a dues structure of \$85.00 and \$140.00 plus an Administration Fee for inactive members.

**PROPOSED BUDGET — 1979-80
EXPENDITURES**

	1979 PRESENT BUDGET	PROJECTED 1979	BUDGET — 1979-80
Salaries	\$ 541,000	\$ 535,000	\$ 590,000
Payroll Taxes & Benefits	85,945	87,000	94,600
Headquarters:			
Rent	115,297	115,297	115,297
Phone	28,372	27,950	30,500
Postage	25,500	31,156	34,500
Office Supplies	25,000	25,000	25,000
Office Equipment	10,000	12,000	12,000
Office Equipment Maintenance	5,000	3,000	5,000
Headquarters Improvements	1,000	7,500	2,500
Office Insurance	4,000	4,000	4,000
Outside Audit	10,000	10,000	10,000
Library	1,500	1,500	1,500
Xerox	20,000	19,500	20,000
Printing Publications	18,000	19,000	7,500
Bar News	80,000	80,000	113,592
Membership/Organizations	1,000	1,000	1,000
Malpractice Insurance	10,000	2,500	5,000
Computer Program	10,000	20,000	80,000
Discipline:			
Discipline Costs	25,000	25,000	25,000
Outside Counsel	3,000	3,000	5,000
House Counsel	5,000	5,000	5,000
Disciplinary Board, LAC & Fee Arb.	5,000	2,500	5,000
Local Bar Presidents	4,500	4,500	5,000
Committees	50,000	40,000	50,000
Conferences & Meetings	35,000	35,000	37,500
ABA & Western	20,000	20,000	25,000
Lawyer Referral	10,000	12,000	20,000
Public Relations	10,000	10,000	10,000
Public Affairs	5,000	5,000	5,000
Convention	100,000	100,000	100,000
Legislative Rep.	55,000	35,000	50,000
Contingency	20,000	20,000	50,000
Bar Exam	150,000	150,000	165,886
CLE	350,000	400,000	368,930
CLE Board	2,500	2,500	2,500
Membership Mailings	10,000	8,000	10,000
Trust Accounts/Spot Audits	30,000	25,000	35,000
Special Outside Counsel			10,000
Sections	15,000	10,000	10,000
Client Security	50,000	50,000	50,000
	\$1,946,614	\$1,963,903	\$2,196,805



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COURT OF APPEALS

By MICHAEL F. KEYES

Release Pending the Appeal of a Juvenile Offender Sentenced Outside the Standard Range

The problems inherent in the release of a juvenile offender pending appeal of a disposition outside the standard range was shockingly brought to this writer's attention when a 14-year-old offender released pursuant to RCW 13.40.230(5) was found dead of an apparent drug overdose in early February of this year, two weeks prior to the hearing of her appeal. The notice of appeal from the disposition order entered December 11, 1978, was not filed until January 8, 1979. Although the appellate court clerk upon receipt of the notice of appeal advised the offender's attorney that accelerated review of the disposition was available pursuant to RAP 18.13, no steps were taken toward accelerated review until February 6, 1979, when the prosecuting attorney filed a motion for same because the offender had been released from confinement.

Generally speaking, RCW 13.40.160 provides that a juvenile offender (one who has been found by a juvenile court to have violated the state criminal code) should be sentenced within a standard range established by the secretary of the department of Social & Health Services, unless the court finds that sentencing the offender within the standard range would constitute a manifest injustice; i.e., a standard range disposition would impose an excessive penalty on the offender or impose a clear danger to society in light of the purposes of the Juvenile Justice Act set forth in RCW 13.40.010. Excluding the State, which may seek review of a disposition outside of the standard range, two categories of appellants from juvenile court dispositions are recognized in RCW 13.40, and the Rules of Appellate Procedure: (1) the offender who seeks review of a finding of "guilt" and the concomitant disposition imposed therefor, and (2) the offender who seeks review only of a disposition outside the standard range. With regard to the latter category, RAP 18.13 permits but does not require an offender to seek accelerated review by the appellate court by motion practice pursuant to Title 17 of the Rules of Appellate

Michael F. Keyes is Court Commissioner for the Court of Appeals, Division III. The opinion expressed in this article represents the rationale underlying his ruling in In re Trick, No. 3109-III, and does not necessarily represent the opinion of the Judges of the Court of Appeals.

Procedure.¹ Because RCW 13.40.230 (5) provides in part that an offender must not be committed or detained for a period of time in excess of (a) the standard range or (b) the time set by the court if the juvenile court disposition is less than the standard range, many offenders are released upon the filing of a notice of appeal without regard as to whether the offender will seek accelerated review. As a result, a burden is placed upon the State when confronted by the release of the offender and uncertainty as to whether the offender will seek accelerated review, of having to move for an accelerated hearing or allow the offender to remain at large.²

Because the choice as to whether review should be accelerated lies initially with the offender, it is the writer's opinion that the provisions of RCW 13.40.230 (5) should not be applicable if the offender does not seek RAP 18.13 review. In other words, release pending appeal of an offender sentenced outside the standard range who does not seek accelerated review pursuant to RAP 18.13 should be governed by JuCR 7.13; otherwise, the remedy of a normal appeal and its attendant passage

of time thwarts the legislative mandate for prompt review of nonstandard dispositions.

Because release of a juvenile offender pending appeal is controlled by the juvenile court pursuant to RAP 7.1(a) subject to review and modification pursuant to RAP 8.2(b), it is suggested that the juvenile court not release a juvenile offender pursuant to RCW 13.40.230 (5) merely because a notice of appeal has been filed. Instead, the juvenile court should determine whether the appellant will seek RAP 18.13 relief and if so, then permit release of the offender as provided in RCW 13.40.230 (5) and advise the appellate court so that it can properly monitor the perfection of the appeal.³ It is hoped that such a procedure could avoid the occurrence of another unfortunate happening.

³It is interesting to note that in 20 percent of the appeals in Division III, the offender has been tardy in complying with the clerk's perfection schedule.

¹The most recent statistics from Division III show that only 30 percent of the appeals from dispositions outside the standard range are pursuant to RAP 18.13.

²In 20 percent of the appeals from juvenile court dispositions in Division III, the prosecutor has moved for accelerated review.

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SUPERIOR COURT NEWS

By JUDGE JAMES A. NOE

Judges Approve Sentencing Guidelines

At the Spring Conference for the Washington State Superior Court Judges' Association, the judges approved sentencing guidelines prepared by the Justice Analysis Center of Schenectady, New York. The guidelines took nearly a year to assemble and are based on the experiences of Washington State Judges.

The guidelines were prepared under the direction of an Advisory Committee. Superior Court members of the Committee were Judges **Sid Buckley**, (Pend Oreille/Stevens), **Warren Chan** (King), **Marshall Forrest** (Whatcom), **Paul Hansen** (Snohomish), **Donald N. Olson** (Spokane), and **Del Cary Smith, Jr.** (Spokane - deceased).

Dealing with Juries Topic of Survey

The Superior Court Judges Courts and Community Committee will gather information from Superior Court Judges concerning the handling of jurors. The Committee has learned that there are various practices throughout the state dealing with jurors and jury problems which should be compiled and made available to all judges in the state. Superior Court Judges are asked to forward any special jury procedures on programs to the Chairman of the Courts and Community Committee, Judge **Harold Clarke**, (Spokane).

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Ethics and Grievance Program Improved

Judge **Carl L. Loy** (Yakima), Chairman of the Judicial Ethics and Grievance Committee, presented a resolution to the Superior Court Judges at the Spring Conference aimed at expediting complaints. The Committee, which includes lay persons appointed by the governor, receives and takes appropriate action on complaints against judges.

Office Practice Tips:

A Practice Manual for Beginning Lawyers

The Office Practice Committee of the State Bar has launched a program to publish a "Where to Go and How To Do It" guide to be entitled *A Practice Manual for Beginning Lawyers*. The Sub-Committee in charge of drafting this work consists of Thomas H. Oldfield, 1501 Washington Building, Tacoma, Washington 98402, and Harry E. Hennessey, P.O. Box 324, Spokane, Washington 99210. They solicit suggestions from new lawyers as to what specific areas they would like covered.

This program arose from the experiences of two young lawyers who started cold and suddenly realized that there was no source or guide to tell them where to go and what to do to accomplish the routine tasks never touched on in law school. Its importance and urgency are heightened by the horde of new practitioners starting out cold. The tentative proposed outline covers the following items:

1. Clients
 - a. Obtaining clients.
 - b. The care and development of clients.
2. Where to Go and What's the Function?
 - a. Offices.
 - b. Agencies.
 - c. Services: Jury services, tracing, couriers, etc.
3. Office Manual.
4. Partnership Agreements.
5. Fee Agreements, Collections and Billings.
6. Equipment and Library Selection.
7. Accounting and Bookkeeping.

It is proposed to produce this manual in a ring book with a cross-indexing arrangement leaving an opportunity for expansion and revision. Some of the material will be drawn from "Office Practice Tips" previously published in the *Bar News*. This column has been in existence since 1948 and many requests have been received over the years for reprints of pertinent articles.

Many newcomers to the Bar may very well be able to suggest areas they would like to have covered and to add a word of warning to avoid shoals we have not chartered. All comments will be gratefully received and seriously considered.

Harry E. Hennessey



The Washington Real Property Deskbook

John J. Michalik

Director of Continuing Legal Education

I am pleased to be able to devote this month's column to the announcement of a significant milestone in the State Bar Association's continuing legal education program: publication of the *Washington Real Property Deskbook*.

Like its predecessor, the *Washington Community Property Deskbook*, the *Real Property Deskbook* is designed to fill the need for a convenient reference work in one of the most important areas of the law in this state. The *Real Property Deskbook* is the product of over two years of intensive effort by a blue ribbon panel of judges, scholars and practitioners. The *Deskbook* itself contains nearly 70 chapters divided into nine major parts: Preliminary Considerations; Estates in Land; Landlord-Tenant; Rights in Real Property; Conveyances; Real Property Financing; Litigation; Taxation; and Governmental Regulation.

The *Real Property Deskbook* is a practice oriented work—with Practice Tips, case summaries and numerous forms. With its Index and statutory and case tables, the *Deskbook* contains approximately 1500 pages and will be published in two volumes, both in hardcover 3-ring binders.

The *Deskbook* will be introduced through, and will serve as the text for, a major seminar on Washington Real Property Law which will be presented at locations throughout the state in June and July. The announcing brochure for this important seminar should have crossed your desks within the last few

weeks. If you have not acted on that brochure, and registered for the seminar presentation of your choice, I urge you to do so.

Approved Continuing Legal Education Activities

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ALI-ABA

Advanced Business Tax Planning
June 24-29, 1979: Palo Alto, Ca 31.50

EDMONDS COMMUNITY COLLEGE

Probate for the General Practitioner
June 15, 1979: Seattle 4.00

FEDERAL PUBLICATIONS INC.

Practical Securities Law
June 25-26, 1979: San Francisco 11.00

NATIONAL PRACTICE INSTITUTE

Weight of Medical Evidence
July 14, 1979: Seattle 7.00
Farm Estate & Business Planning
July 17, 1979: Spokane 6.50

PRACTISING LAW INSTITUTE

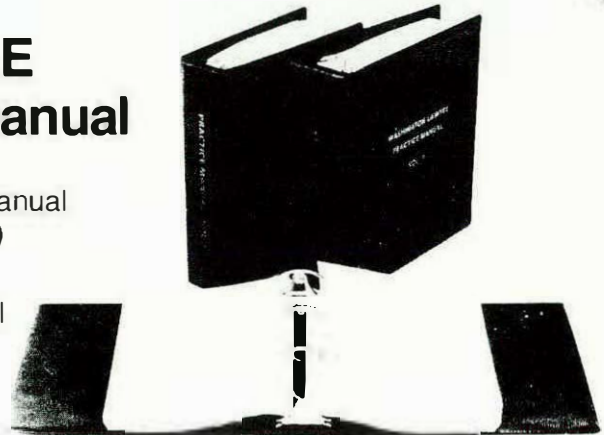
Private Real Estate Limited Partnerships
June 14-15, 1979: San Francisco 12.00
Breach of Contract Under the UCC
June 25-26, 1979: San Francisco 9.00

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Legal Aspects of US-Japanese Business Transactions
June 16, 1979: Seattle 6.50
Major Tax Aspects of Real Estate Transactions
July 23-27, 1979: Seattle 15.00
Qualifying & Maintaining Pension & Profit-Sharing Plans
July 23-27, 1979: Seattle 15.00

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Section Reports

WASHINGTON STATE YOUNG LAWYERS

By TERRY E. LUMSDEN, CHAIRPERSON

An update of the status of the Young Lawyers' Section resolution before the Board of Governors is appropriate at this time, as well as an informative review as to the programs and activities of the Young Lawyers' Section.

The April *Bar News* contained an article from the Young Lawyers' Section regarding its resolution before the Board of Governors. As of the April meeting, that resolution had not been formally passed upon.

Presently, the Young Lawyers' Section membership has doubled in size over the past year's total, and it is anticipated that that figure will be even higher by mid-year. The reason would have to be the commitment made by the Board of Trustees of the Young Lawyers' Section to make our Section more responsive to the needs of the younger lawyers, and further, to be more responsive to the needs of our communities.

This past year, the Young Lawyers' Section has been instrumental in furthering the Tel-Law project into Spokane and Seattle, and has been instrumental in establishing legal information centers in Spokane and has helped fund the Pierce County Law Day for the third annual Pierce County Open Court House, both activities to take place on Law Day, 1979. Our newly created Affiliate Outreach Committee has organized Young Lawyers meetings in many cities in the state of Washington in hopes of starting local Young Lawyers' Sections. Our Section first brought to the attention of our Board of Governors accusations found in the Devitt Committee report, and as a consequence, the state of Washington has apparently been acclaimed the most progressive state in adequately responding to the Devitt Committee report and its suggestions. The Young Lawyers' Section, in conjunction with the King County Young Lawyers, were one of few organizations in the country to receive special funds to study housing problems in the local areas. The Skills Training Courses are to be initiated very soon by our Bar Association, at their beginnings, through the leadership of the past Young Lawyers' Section membership. The Young Lawyers' Section this year, sponsored the first Military Justice Seminar in the nation.

The list could go on, but the point is obvious that the Young Lawyers' Section in the state of Washington is becoming more involved in the betterment of our profession and our community. These accomplishments have been made despite the handicap of having to recruit members literally by hand and to require the payment of dues, which actually bear no correlation to the funds extended as noted above.

Nominations are now open from the membership for Trustee positions, two in King County and one in Pierce County. A newsletter will be issued this summer and there will be a general meeting for the entire membership at the Bar Convention in Vancouver, in September.

See you there.

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Around the State

SEATTLE-KING REPORT

By JAMES L. VARNELL

Random Comment. Unaccustomed as I may be, this correspondent welcomes being informed of any newsworthy items suitable for publication in this column,

which items might include new law office associations, high golf scores, low batting averages, reports of the one that got away and/or one that should have been settled.

Athletic Department. The all-attorney softball team of Pro Se has been improved by the addition this year of **Ken Kaplan, Jim Moore, and Larry "Downtown" Ransom**, along with the

return of hot-hitting **John Hoerster**. Unfortunately, **George Bennett** has retired, **Bill Creech** continues to be on the injured reserve list, and **Tom Clark** is turning out for the team again this year. Another local team with lofty prospects includes **Dick Weil, Tim Fishel, Stewart Riley** and **Roger Mykelbust**.

New Associations. **Gary Strauss** is now associated with Houger, Garvey & Schubert. **Brian Kremen** is now vice-president and general counsel for Schoenfeld Industries, and **Kinne F. Hawes** is assistant general counsel there. **John F. Boespflug, Jr., Thomas C. Gores, James A. Smith, Jr., and Kimberly W. Osenbaugh** have been made partners of Bogle & Gates. This correspondent, **Henry M. Aronson** and **Moshe J. Genauer**, the latter two being recent admittees to the Washington Bar, have become associated with Ziontz, Pirtle, Morisset, Ernstoff & Chestnut. **Mary Ann Ottinger** and **Steven Hayne** have become associated matrimonially. (There is no truth to the rumor that Steve has terminated his law practice to concentrate upon the television commercial business). **Thomas N. ("Conway") Bucknell** is associated with Casey, Pruzan, Kovarik & Shulkin.

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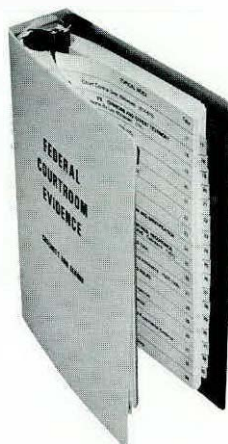
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Judith Jeffers and **Donovan Flora** announce the formation of their partnership for the practice of law under the name of Jeffers & Flora at 300 Grand Central on the Park, 216 First Avenue South, Seattle, Washington 98104 (206) 292-9800.

CLE. Inexperienced attorneys interested in a successful criminal law practice would be well-advised not to commit the mistake made by a Seattle criminal defense attorney: referring to his client as "Mr. Guilty" in closing argument. It happened, but no names will be mentioned.

PARKER & SON PUBLICATIONS, INC.

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SKAGIT REPORT

By ELLIOTT W. JOHNSON

The Board of Governors held its last meeting in the big (population: one

attorney) city of LaConner last month. Several local attorneys attended including Anacortes practitioners **Stephen Skelton** and **Doug Owens**. The high-point of the evening occurred when both agreed to leave the meeting (to a round of relieved applause). It is reported (and I was afraid to confirm it) that Doug offered to engage in a battle of wits with one of those in attendance but withdrew the offer when he concluded that he would be fighting an unarmed man.

In other news around the county, **Larry Moller** turned thirty (and immediately lost most of his hair); Prosecutor **Pat McMullen** did not have any changes in staff for the first time in several months; **Bud Gilbert** returned from a seven-month vacation in Europe and then went to Palm Springs; and **John Kamb** set a new record for cheapness by taking Wilma and their eight children to Hawaii and then housing them all in a two-bedroom condominium.

Finally, those of you who have been looking for **Glenn Reed** can now find him specializing in litigation in his new office at 709-711 So. First Street, Mt. Vernon, WA 98273, (206) 336-3111.

SNOHOMISH REPORT

By **HENRY S. CHAPMAN**

On April 12, 1979, Judges, members of the Snohomish County Bar Association and friends paid last respects to retired Attorney **Stanley L. Conroy** in a memorial service held in the Presiding Department. Stanley's son, **Steve**, also an attorney, was present to acknowledge the last respects for his father.

The new officers for the Snohomish County Bar Association for the year 1979 are as follows: **Faye C. Kennedy**, President; **Curt P. Thomson**, Vice-President; **Henry S. Chapman**, Secretary; **Robert G. Perlman**, Treasurer.

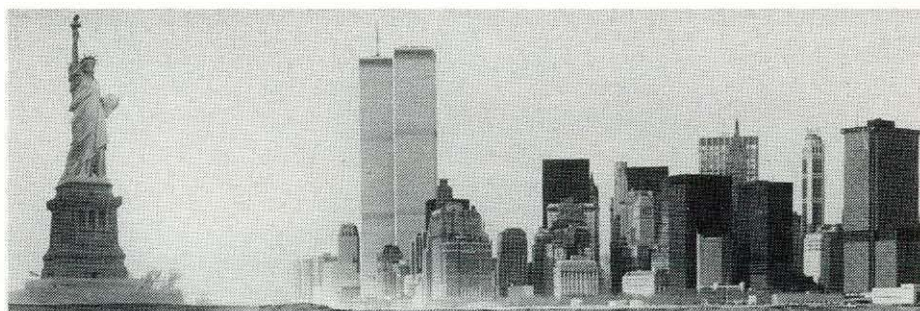
The Snohomish County Medical Association has also selected a lady as president of their association, Lucille W.

Mason, M.D.

On behalf of the members of the Snohomish County Bar Association, I wish to thank **Donald J. Lyderson** for the excellent job as President of our Bar Association in the year 1978.

Please be reminded that our monthly bar association meetings are held at 12:00 noon on the last Friday of each month at the Cascade Club, Seattle-First National

Bank Bldg., Everett — see you there! (Out-of-town attorneys are welcome to attend.) □



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2 Seattle Attorneys Take Part in Trade Delegation To the Republic of Korea

Gordon S. Clinton, former mayor of Seattle in the firm of Clinton, Fleck, Glein and Brown, and Ronald G. Brown, sharing offices with the law firm of Estep and Li, participated in a 34-member trade delegation to the Republic of Korea in April.

The trade delegation was part of a "Meet Washington State" Trade Mission sponsored by the State Department of Commerce and Economic Development.

Clinton was the moderator for a panel on April 25 at the U.S. Embassy which dealt with financial and legal aspects of investment and business in Washington State. Brown, who formerly worked for Baker and McKenzie in Tokyo, was the legal resource member of the panel.

NALA to Hold 4th Annual Workshop in July

The National Association of Legal Assistants, Inc., announces its fourth annual workshop for legal assistants scheduled July 9 and 10, at the Diplomat Resort & Country Club, Hollywood, Florida. Attorneys and other members of the law office team are welcome to attend. Registration Fees are \$65 for NALA members and \$90 for non NALA members. This fee includes luncheon on both days and handout material in booklet form. Immediately following the workshop, on July 11, the membership of the Association will hold its annual meeting.

For further information contact: Mrs. Geri Land, NALA Public Relations Chm., NALA Headquarters, 3005 East Skelly Drive, Suite 122, Tulsa, Oklahoma 74105, (918) 749-4756.

Bosses Honored by GSLSA

Greater Seattle Legal Secretaries Association honored their bosses at the

24th Annual Bosses Night Dinner at the Washington Plaza Hotel. Mr. John Rupp was master of ceremonies and presided over the installation of officers and the awards presentation for Boss of the Year, Legal Secretary of the Year, and Member of the Year. A loose interpretation of "the Drunkard" was presented.

CLE Seminar Juvenile Offense Practice

A CLE Program on Juvenile Offense Practice will be presented June 15th in Seattle, and on June 22nd in Spokane. For further details contact the Criminal Justice Training Commission in Olympia: phone (206) 753-7450.

Probate and Administrative Law Seminars To Be Held at E.C.C.

The Edmonds Community College Legal Assistant program will sponsor two CLE approved seminars in June. The intent is to make presentations in areas where attorneys and legal assistants work cooperatively. The seminars will emphasize both legal education and the effective utilization of legal assistants.

The first seminar, PROBATE FOR THE GENERAL PRACTITIONER, will be offered on June 15, 1979 from 12:00 p.m. to 5:30 p.m.. This seminar will present a practical guide for a successful probate practice. Included among the speakers are Robert Beezer, Robert Muckleston and R. Drake Bozarth, attorneys and Karen Reuland, legal assistant. Grahame Bell, an attorney who is a member of the College Board of Trustees, will be the moderator.

The second seminar is planned for June 29th from 12:00 p.m. to 5:30 p.m. and is entitled, THE PRACTICAL ASPECTS OF ADMINISTRATIVE LAW — HOW TO: 1. HANDLE THE HEARING; 2. UTILIZE LEGAL ASSISTANTS; 3. RECOVER ATTORNEYS FEES. The scheduled speakers

are Randy Beitel, Paul Whelan, David LaRose, Croil Anderson, Leland Ripley.

Both seminars have been approved for 4.00 CLE credits each. They will be held on the Edmonds Community College Campus in the school's library. The number attending will be limited to sixty (60) individuals per seminar.

For further information, call the Legal Assistant Program at (206) 775-4444.

Gersham Goldstein to Speak at G.G.U. Lunch

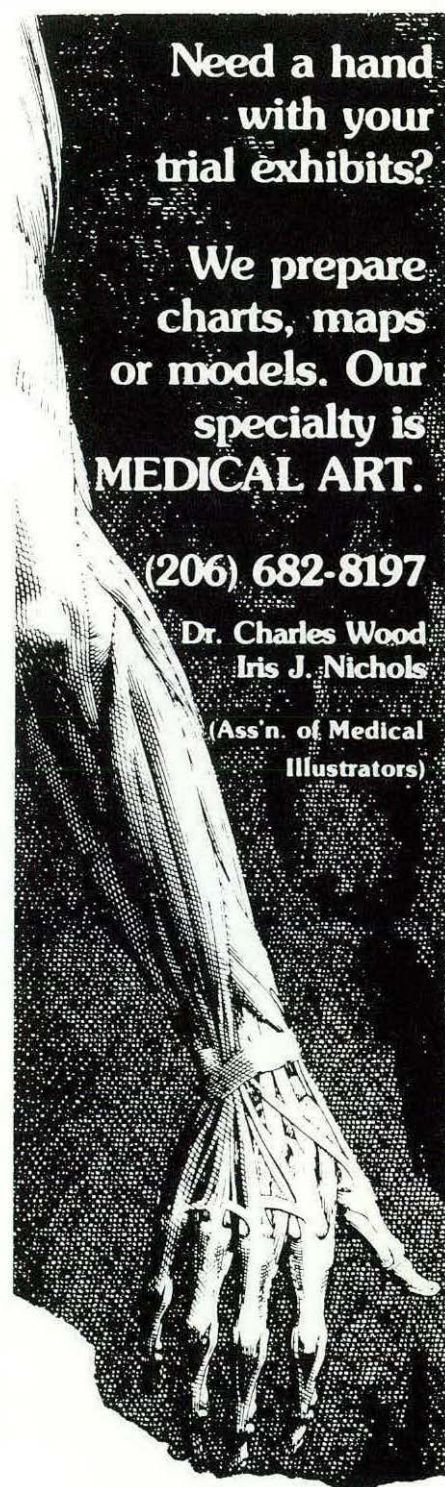
Mr. Goldstein will speak at the first annual luncheon of Golden Gate University's Seattle Graduate School of Taxation on Thursday, June 21. His topic will be "A Court of Tax Appeals—An Idea Whose Time Has Come?"

Mr. Goldstein has served as consultant to the Commission on Revision of the Federal Court Appellate System and as adviser to the U.S. Treasury. He has taught at several law schools and lectured at many tax institutes. He is a partner in the Portland, OR, law firm of Davies, Biggs, Strayer, Stool and Boley.

The luncheon will be held at the Washington Plaza Hotel at noon, with a no-host bar opening at 11:30 a.m. It is open to the public. Tickets are \$12.00 each and may be obtained from Golden Gate University, 310 Skinner Building, Seattle 98101, telephone (206) 622-9996. No tickets will be sold at the door.

In Memoriam

Frederick A. Clanton, 68, of Spokane, died April 19. He was admitted to the Bar in 1933.



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Mr. Durkan served seventeen years with the IRS as corporate auditor, review and trial attorney and as Assistant Appellate Counsel of the Seattle District. Member of Washington and Montana Bars.

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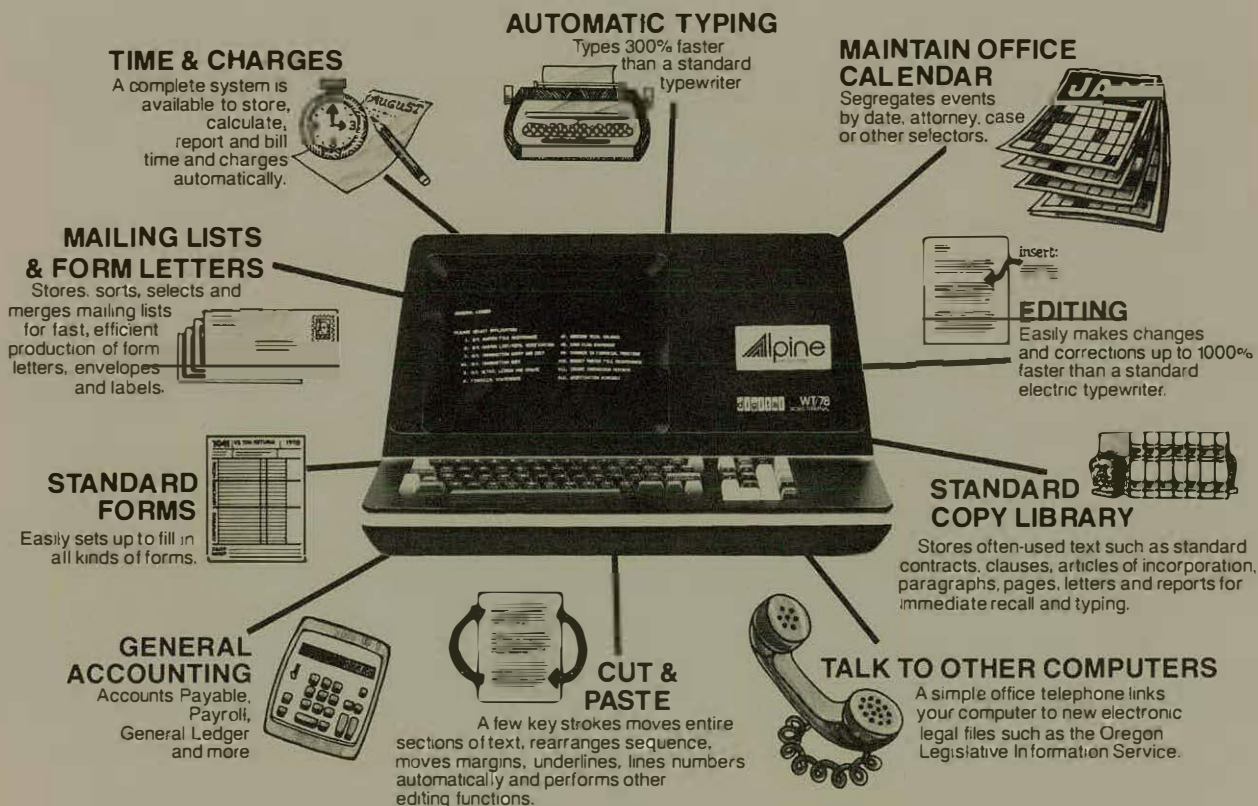
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