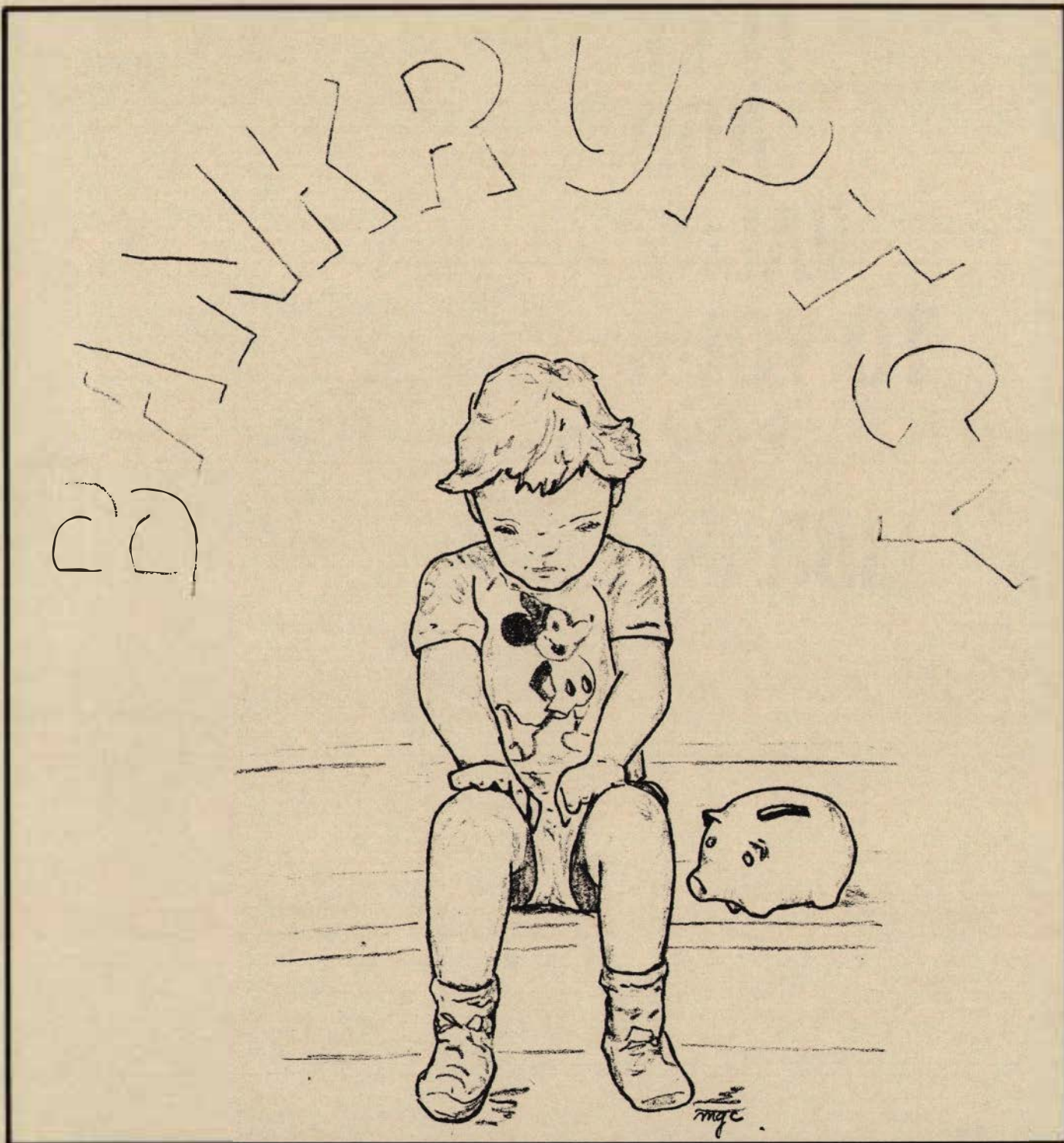

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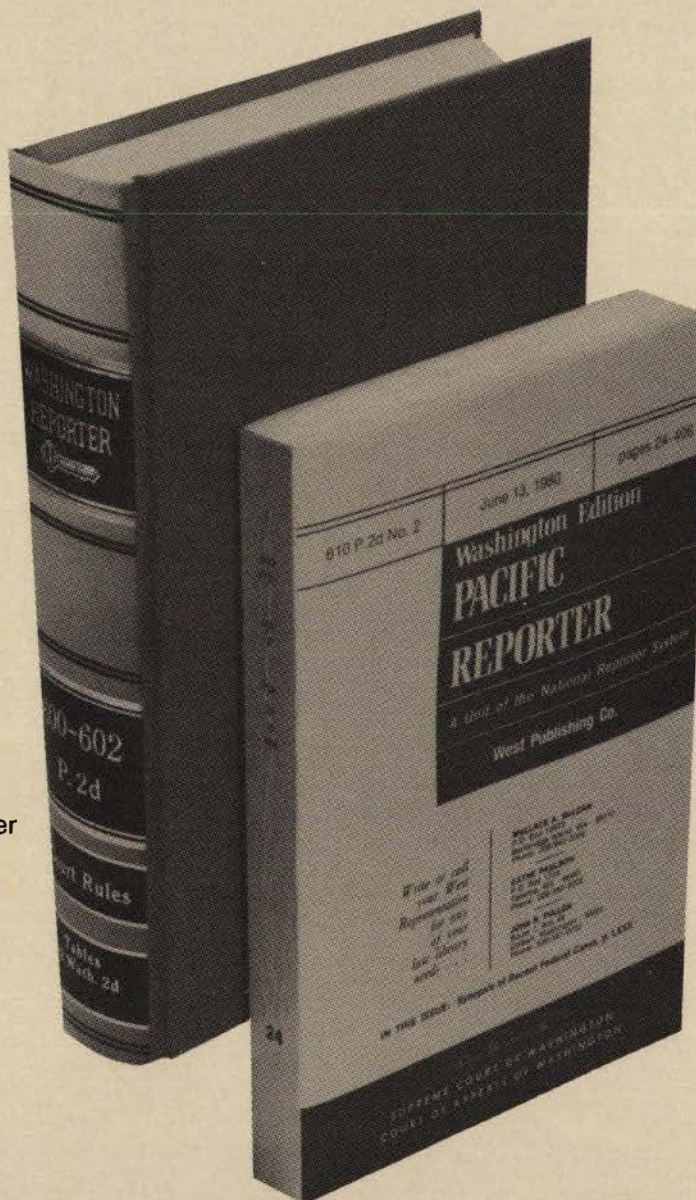
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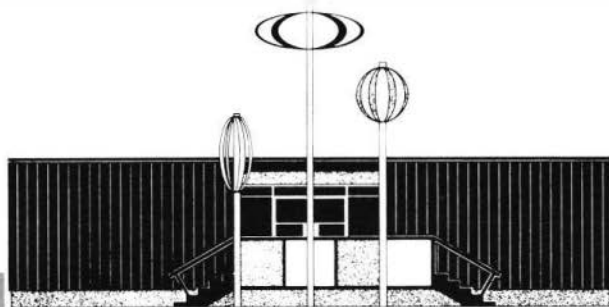
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Dennis M. Eagan, *Advertising Manager*

Karin Foster-Garrison, *Business Manager*

All editorial material, including editorial comment, appearing herein represents the views of the respective authors and does not necessarily carry the endorsement of the Association or of the Board of Governors.

Published monthly on the 1st day of the month. Deadline for editorial and classified advertising materials: 25th day of second preceding month.

Direct all correspondence and editorial copy to Washington State Bar News, State Bar Office, 505 Madison, Seattle 98104. Telephone: (206) 622-6054.

Subscription price is \$12.00 a year for members, \$18.00 a year for non-members. Subscription included with active membership. Single copies \$3.00 per issue.

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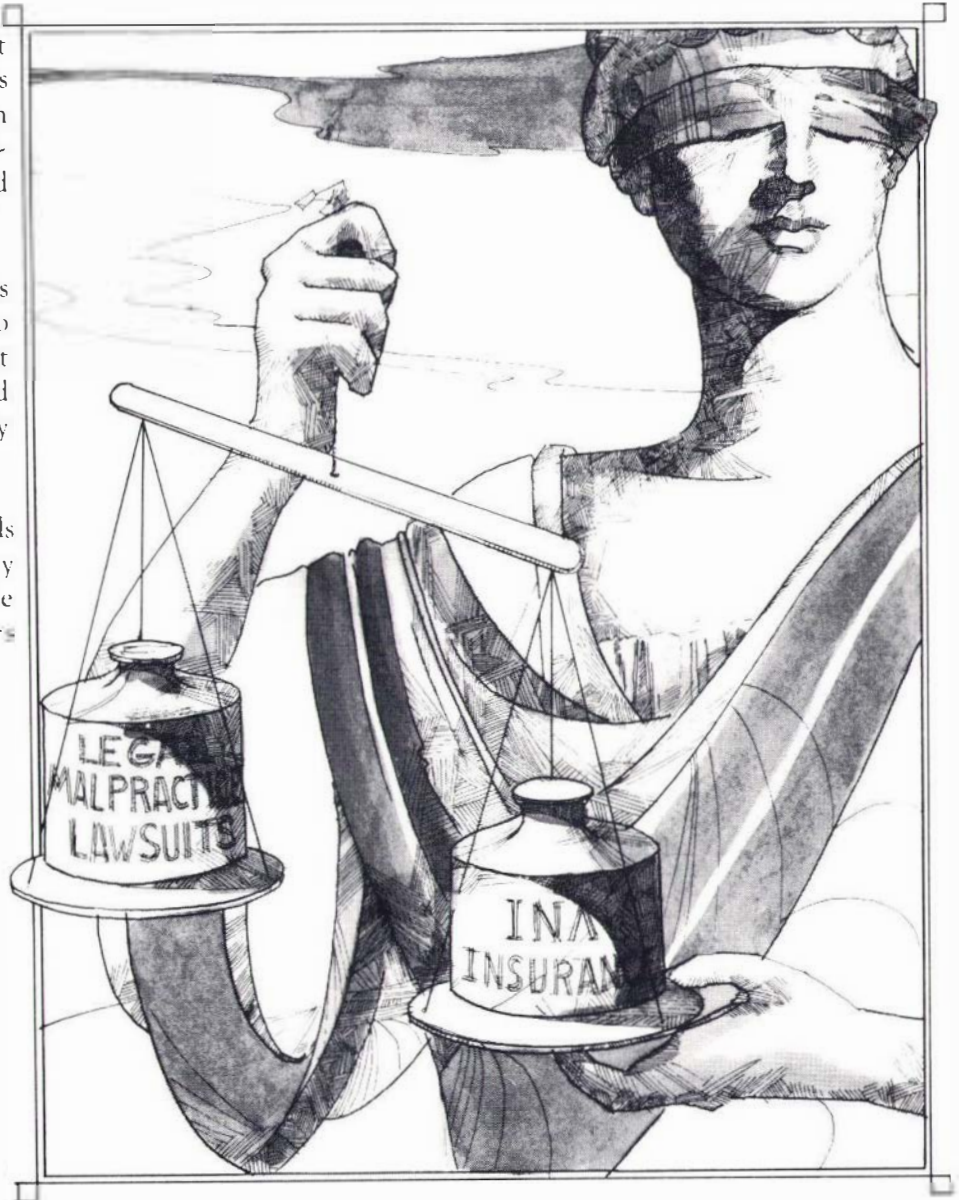
Relief from bankruptcy's automatic stay. Pencil drawing by Marie G. Creson, Assistant U.S. Attorney, Seattle.

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The Child Puppeteer

Editor:

I read with considerable interest the article in the March issue by Mr. Halverson concerning joint custody. I handled over 2,000 domestic relation problems (not all of them reached Court) over a period of 40 years and in many instances some form of joint or alternating custody was adopted by agreement between the parties.

In a number of instances a disadvantage arose which was not mentioned in Mr. Halverson's article. Children from 10 or 12 years of age upward frequently commence to play one parent off against the other. If mamma said "no" the child carried

his grief to papa, who sometimes gave in with a "yes". On the other hand if papa restricted the child, mamma was likely to develop too much sympathy and undercut papa.

The mother and father become the puppets and the child the puppeteer. While alternate visitations of duration measured by the circumstances are to be encouraged, I believe there should be *one* official custodial parent.

S. DEAN ARNOLD

Clarkston

What's All the Fuss About?

Editor:

I just read the February article "Walking on Hot Coals: *Hagen & Van Camp v. Kassler Escrow, Inc.*" The Supreme Court decided that the preparation of conveyancing instruments by non-lawyers is the unauthorized

practice of law. Now the Board of Governors is apparently besieged by angry protests of those affected by the decision, and a task force has been organized to consider how *we* as lawyers can resolve the *problem!* There is talk of a court rule that would allow laypersons limited practice rights or possibly a constitutional amendment might solve the problem. We, as lawyers, did not create the problem. The problem is an economic one to the escrow companies and one of the public receiving adequately drafted legal documents.

With all the recent talk about there being too many lawyers allowed to run loose in our society, why don't the unauthorized laypersons hire some unemployed lawyers to prepare conveyancing instruments. Is the goal to protect the public or to protect the profits of title and escrow companies? The Board should leave the "hot coals" alone and stay out of this issue. We should not have to

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Bar Convention Side-Shows?

Editor:

I have no quarrel with the Vancouver B.C. situs, which apparently is necessary due to our numbers, however, I do find completely unprofessional and unnecessary all of the hoopla and hype which in recent years has grown out of all proportion to the dignity of earlier years associated with our yearly gatherings.

The convention has become a side-show what with theatrical type speakers, hired at no mean expense to the members, footraces, tennis and golf events, all of which detract from the principal business of the conven-

tion which should be education and the conduct of the affairs of the Association.

What's next, Strippers?
DEANE W. PARKER
Seattle

The Joint Custody Placebo

Editor:

I enjoyed Mr. Halverson's recent article entitled "The Joint Custody Alternative" (March, 1982), but found myself at the conclusion still faced with the same question that spurred my interest in the first place: What is joint custody and why is it referred to as an alternative?

After about eight years of practice (which has always involved a good share of dissolution cases) I have yet to encounter the ideal joint custody situation described by Mr. Halver-

son. I've always examined each case to determine the appropriateness of an award of joint custody, and have regularly come up short when asked by my client, "What exactly does that mean?" In boiling it down to the essence, my response has tended to be something like, "Well, if you encounter a dispute which you and your spouse cannot resolve concerning the upbringing of your child, and it is serious enough to seek the intervention of a court, you will enter the proceedings on equal legal footing."

It is clear that, if you have two "fit" and concerned parents, the likelihood of encountering such an irreconcilable disagreement is minimal. But my real concern is that I can't identify any other by-product of an award of joint custody.

Referring to the advantages of joint custody enumerated by Mr. Halverson does not provide me much help. If you begin with two parents who are sufficiently oriented to their children to consider a joint custody award in

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the first place, I cannot agree that such an award "relieves the burden of single parenting" or renders "decisions about the child's life...better informed."

As for the advantage that "the child will have fewer problems with divided loyalty to his parents", the teaching of my experience is that such feelings are the function of time spent with a child, not of the cold semantics of a Decree the child probably will never see. In other words, a liberal visitation schedule by a non-custodial parent in a traditional custody setting probably accomplishes a great deal more than a joint award involving the child's spending considerably greater time with one parent than with the other.

Mr. Halverson believes that "joint custody is inherently more flexible than sole custody awards" and explains that the parents can readjust custody arrangements as necessary because of their "equal authority before the law." While this hearkens to

my all-too-familair response to my clients, I think we can all agree that if there arises a dispute of the magnitude justifying judicial interference, most of the "flexibility" of the joint custody arrangement is lost or of little benefit to the parties and their children.

I cannot agree that joint custody, as opposed to sole custody with liberal visitation provisions, is any more "private decision making without the interference of the courts" than is the latter. I have the same reaction to Mr. Halverson's suggestion that the joint custody arrangement provides a superior parenting role-model, and that support money problems may diminish.

I have been haunted by the deleterious effects of the entire legal/familial/societal process of dissolution of marriage on children, and on the relationships of children and parents. It's no news to the bar that this is a tragic sadness with which many

of us live. I am anxious for solutions or even for partial ones. That is why the subject of joint custody is so troubling to me—I keep wondering what it accomplishes.

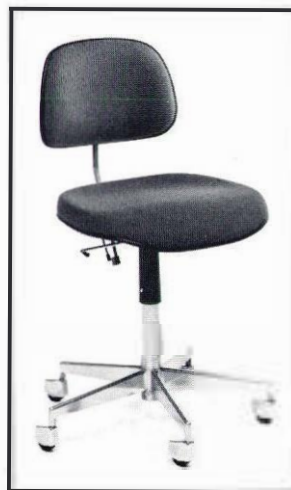
Perhaps it is just a placebo which does not confer on the parents any benefit except that which they themselves perceive in terms of their own self-worth. I hope very much that joint custody will prove to be more than that and can provide some very real and lasting benefits. I am doubtful, however.

EVAN E. SPERLINE

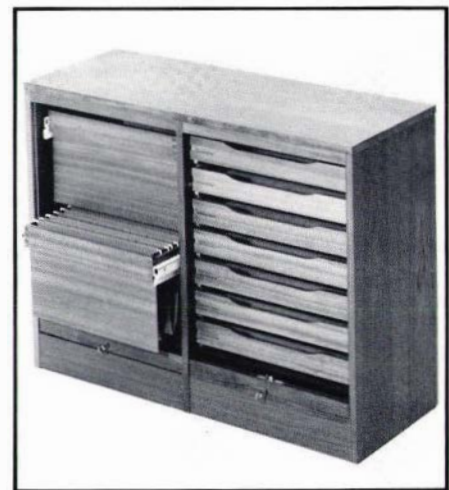
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A Day in the Life of an Associate

It began as an ordinary Tuesday. The telephone rang incessantly. My in-basket grew like Mt. St. Helens' lava dome. I had two separate motions to attend at the same time, one in Port Orchard and one in Spokane. In short, everything was under control.

At 9 a.m. the partner came into my office. There was a crisis, she explained, and I was the only lawyer in the office capable of handling the situation. She said: "Your mission, should you decide to accept it, is to write a comprehensive memorandum explaining everything there is to know about the common law. I need it by tomorrow morning."

"I don't think I can have it done by tomorrow morning," I mumbled sheepishly.

"That's fine," the partner replied. "In that case your mission is to clean out your desk by noon today."

I agreed to write the memorandum impossible.

Although it was a staggering assignment, I had all but completed my research by 2 o'clock. There was a hole in my memo, however, and the one critical case which could fill that hole eluded me. I combed *Corpus Juris* and *ALR* and *AmJur*, but still I could not find what I needed. Then, in an obscure footnote to an obscure article in the *Washington State Bar News* I found an annotation which suggested the answer I was looking for. The citation was to 13 UFD 378, an old volume of the *Undistinguished Federal Decisions Reporter*. Alas, I found our library to be lacking. We had all the UFD 2ds, but nothing as old as this case. I quickly packed my briefcase and drove down to the county law library.

I knew that the county law library had everything a lawyer would ever need. I asked the librarian for the location of the UFD reporters. They were on the third shelf from the bot-

tom, aisle 46C, she told me. I went to aisle 46C. I checked the third shelf from the bottom. I found 12 UFD and 14 UFD. 13 UFD was checked out!

It was 4 o'clock.

"Do you have another collection of the UFDs?" I asked the librarian. "The one volume I need is missing."

"We have a duplicate set on the second shelf from the top, aisle 3P," she told me.

I went to aisle 3P. I checked the second shelf from the top. I found 12 UFD and 14 UFD. 13 UFD was checked out!

It was 4:30.

I was a little disconcerted. The library rules forbade disclosing who had checked out the books. Furthermore, the books were not due back for a week. "You might try the federal law library," the librarian advised me.

The federal courthouse building was ten blocks away. Because it was rush hour, I abandoned my car to the meter maids and began to hoof it.

Traffic lights caught me at every intersection. Building construction caused me to take a time-wasting detour. My shoelaces came undone and I had to retie them.

I arrived at the federal courthouse at 5:03. The library had closed at 5 o'clock.

Sitting on the courthouse steps, my head in my hands, I pondered my dilemma. It was Tuesday evening. The memorandum had to be done by Wednesday morning. In my briefcase I held the handwritten draft of the final product, ready for typing but for one critical case. I had no choice but to catch a northbound bus and check out the local law school library.

At 6:30 I arrived at the law school. I asked the librarian where I could find their UFD Reporters. "Basement level, eighth shelf from the middle, aisle 99Z," he told me.

I went to the basement level and found aisle 99Z. I checked the eighth shelf from the middle. I found 13 UFD 378! I blew away the dust and read the case: *Bandicoot Industries,*

Inc. v. Ziggy, 1923. It was right on point.

Barely able to restrain my delight, I flew up the stairs and raced to the photocopying machines. There were two machines available. One was out of order and a student stood at the other machine photocopying the *Encyclopedia Britannica*. His stack of quarters stood two feet tall.

He copied, I waited, the hours passed. Finally, at 10 o'clock the student left. I laid my book open-face on the photocopier glass and reached for my coins. I had no coins.

Desperately, I searched through the law school library seeking someone who could make change for me. Nobody could. I threatened, I panhandled, I pleaded, but everyone there needed his coins for his own photocopying. Beaten, but not defeated, I sat down and copied the entire case by hand—all sixty-two pages of it. At midnight I was through copying and ready to finish my memorandum.

Of course, by this time there were no secretaries available at the office to type my masterpiece. Reluctantly, I took the bus into town and prepared to type it myself.

I cannot type. What is more, I do not know how to use a word processor. I found an old manual typewriter, got a bottle of white-out and, hunting and pecking, typed my four hundred and eighty-five page memorandum.

It was finished by Wednesday, 8 a.m. (so was I!). It was a gem. My memorandum was comprehensive; it discussed everything, including 13 UFD 378. At 9 a.m. I handed it in to the partner.

"Thank you," she said. "The case settled at 8:30 this morning so I won't need your memorandum after all. I have another assignment for you instead. It's due by this afternoon."

It was starting out as an ordinary Wednesday. Everything was under control. Just another day in the life of an associate.

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The Open Door

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Let's start from the top. You elect your personal representative to the Board of Governors, based upon the legislative district in which you reside. That Board member is responsible to you, will listen personally to your concerns, and is, in fact, anxious to receive your input concerning the affairs of the State Bar. He or she is always listed in your membership directory—call or write at any time. The fact is that the matters which the Board of Governors considers at its meetings are docketed in substantial part in response to member requests. The door is open.

Meetings of the Board of Governors are not secret, nor are they held on the spur of the moment. The meetings are open to everyone, with the singular exception of executive sessions which deal almost totally with disciplinary and admissions matters.

Board meetings have been purposefully scheduled in many cities throughout the state each year. The reason is to place them within reach for Bar members, citizens, and members of the news media from nearby communities who would like to attend. The meeting dates and locations are announced well in advance each month in the *Washington State Bar News*. A call to the Bar Office, or to your personal representative on the Board, will give you a description of the significant items scheduled for the next meeting.

The proceedings of these meetings are really the essence of State Bar programs. They are busy sessions that require one full weekend each month for Board members to get through a crowded agenda. Each meeting is filled with a parade of spokespersons representing points of view on virtually all the issues that are discussed.

What are some of the issues currently on the burner? At the March Board of Governors meeting in Yakima, considerable attention was given to CLE programs for the coming fiscal year, the issues of public bidding on criminal defense contracts, the creation of new federal court positions in the northwest, changes in real estate closing procedures, Law Day activities, State Bar legislative positions and activities, redistricting the State Bar, and procedures for handling proposed rules referred by the Supreme Court to the Bar Association. Also received

and discussed were reports concerning the State Magistrates Association, the Superior Court Judges Association, the William O. Douglas Memorial Committee and the Judicial Information Service.

The proceedings of the Board of Governors meetings are reported in the *Washington State Bar News* by its editor. These reports are independent of any influence or editing by the Board. They are truly detached observations, and they are intended to cover the significant decisions and actions of the Board. In addition, several independent legal groups send observers to every meeting to report activities to their own members and boards.

Yet, despite the frequency of Board meetings, and their location in cities around the state, and the announcement in advance of time and place, and the availability of agenda information, and the independent reporting of meeting proceedings, and the encouragement of interested observers to attend—do you know how many individual Bar members independently attend Board of Governors meetings?

Virtually none.

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I urge you to become interested and active in the work of the Board. Your representative on the Board would welcome that. The Board of Governors of this Association is one of the most sensitive and responsive groups I have seen. Take advantage of that—it is your Association, and the potential for you to influence its course is greater than you might have assumed.

Next month I will describe some other avenues to control your professional destiny through involvement in the State Bar.

Appellate Review of a Jury Trial

by Douglass A. North

This article focuses on the aspects of appealing from a jury trial. The primary source of any trial court error in a jury case is in the jury instructions themselves. Some actions of the trial court, however, may also be considered to be erroneous in the jury context.

A. Actions of the Trial Court

The trial court has a duty not to intercede in the trial in such a way as to communicate its opinion of the credibility of the witnesses or the resolution of the factual issues, *Egede-Nissen v. Crystal Mountain*, 93 Wn.2d 127, 606 P.2d 1214 (1980). In *Egede-Nissen*, the court held that if the trial judge improperly indicates his view of the matter by "body language", no objection need be made at the time to preserve the error on appeal. The trial court's duty is merely to rule upon the evidentiary issues and to provide correct jury instructions to the jury. An entry of a finding by the trial court in a jury case is not prejudicial error, however, where it is consistent with the jury verdict. *Martire v. Borjesson*, 19 Wn. App. 556, 557 P.2d 596 (1978).



Douglass A. North is a Seattle attorney with the firm of Hennings, Malman, Weber & Reed. He is a former law clerk to Judge Keith M. Callow of the Washington State Court of Appeals.

B. Challenge to Jurors

If a juror should have been excused but was not, the remedy is reversal, *Miles v. F.E.R.M. Enterprises, Inc.*, 29 Wn. App. 61, _____ P.2d _____ (1981). In *Rich v. Campbell*, 164 Wash. 393, 2 P.2d 886 (1931), the court held that the test for error is whether a reading of the whole juror's examination [up until the time of challenge] convinces the appellate court that the trial judge abused his discretion in overruling the challenge. Failure to renew the challenge upon discovering new prejudicial matter waives the error as to the new matter. *Miles, supra*.

C. Duty of the Court

Except for constitutional errors, the trial court has no duty to correct proposed instructions. *State v. Robinson*, 92 Wn.2d 357, 597 P.2d 892 (1976). Where instructions are inconsistent, it is the duty of the reviewing court to determine if the jury was misled. *State v. Wanrow*, 88 Wn.2d 221, 559 P.2d 548 (1978).

A trial court's refusal to give a particular instruction will not be overturned when the proposed instruction is erroneous in any respect. *Beaughan v. Losvar*, 19 Wn. App. 593, 576 P.2d 451 (1978). The basic theory is that a party is entitled to an instruction on any theory of the case which is supported by substantial evidence. *Minert v. Harsco Corp.*, 26 Wn. App. 867, 614 P.2d 686 (1980).

(1) Sources of Jury Instruction

An instruction on a statutory matter must incorporate court constructions of the statute. *Stewart v. State*, 92 Wn.2d 285, 597 P.2d 101 (1979).

Language in Appellate Court Opinions is not ordinarily designed or intended as a model for jury instruction. *Vangemert v. McCalmon*, 68 Wn.2d 618, 419 P.2d 617 (1966). *Boley v. Larson*, 69 Wn.2d 621, 419 P.2d 579

(1966). Court language should be rephrased in a manner more appropriate for jury consideration.

D. Erroneous Instructions

The key to adequate jury instructions is the ability of each party to argue his theory of the case. *Stewart v. State, supra. U.S.F. & G Insurance v. Brannan*, 22 Wn. App. 341, 589 P.2d 817 (1979). Generally, instructions are sufficient if, when considered as a whole, they properly set forth the applicable law. *Minert v. Harsco Corp.*, 26 Wn. App. 867, 614 P.2d 686 (1980).

(1) Preserving Error for Appeal

This is the most difficult problem in appealing jury instructions. First of all, objections must be made in the trial court, *Garcia v. Brulotte*, 94 Wn.2d 794, 620 P.2d 99 (1980). Second, the part or paragraph of the instruction objected to must be specified. *Bitzan v. Parisi*, 88 Wn.2d 116, 558 P.2d 775 (1977). Third, the trial court must be informed of the point of law involved and why objection is made. *American Oil v. Columbia Oil*, 88 Wn.2d 835, 567 P.2d 637 (1977). Fourth, only grounds for objection argued in the trial court can be argued on appeal. *Owens Corning v. Labor and Industries*, 25 Wn. App. 658, 612 P.2d 799 (1980).

The purpose of all of these requirements is to require the parties to make their best efforts to produce an error free trial by advising the trial court of any alleged error so that it can be corrected. *Cantu v. John Deer Co.*, 25 Wn. App. 701, 603 P.2d 839 (1979). Thus, an instruction either proposed or agreed to by a party cannot be challenged on appeal. *State v. Savage*, 22 Wn. App. 659, 591 P.2d 851 (1979).

There are several helpful exceptions to all these rigid rules, however. The mere fact that a party proposed an instruction at the beginning of trial, will not prevent him from challenging it on appeal where the facts do not support it and he objects to it at the end of trial. *Glenn v. Brown*, 28 Wn. App. 86, 622 P.2d 1279 (1980). Counsel's failure to object to the lack of an instruction at trial will be excused where a constitutional right is involved. *State v. Blight*, 89 Wn.2d 38, 569 P.2d 1129 (1977). And in *Samuelson v. Freeman*, 75 Wn.2d 894, 454 P.2d 406 (1969), the Supreme Court allowed review of instructions reluctantly accepted in the trial court despite the lack of an exception, because the instructions represented the established law at the time which had since been changed in a major appellate court opinion.

(2) Prejudicial or Harmless Error

(a) Prejudicial Error

An error is prejudicial if it affects, or presumptively affects, the outcome of the trial. *State v. Edwards*, 93 Wn.2d 162, 606 P.2d 1224 (1980). Although error in an instruction is presumed to be prejudicial, *State v. Wan-*

row, 88 Wn.2d 221, 559 P.2d 548 (1978), an erroneous instruction will not require reversal of judgment if the other instructions are sufficient to correct and clarify the erroneous information. *State v. Gallaher*, 24 Wn. App. 819, 604 P.2d 185 (1979).

(b) Harmless Error

Giving of an erroneous instruction, though presumptively prejudicial, may be affirmatively found to be harmless, upon examination of the entire record. *State v. Burnham*, 19 Wn. App. 442, 576 P.2d 917 (1978). This is especially true where the court has found that it could not have affected the outcome of the trial. *State v. Savage*, 22 Wn. App. 659, 591 P.2d 851 (1979), and is even true where the error involved is a constitutional one. *State v. Stallworth*, 19 Wn. App. 728, 577 P.2d 617 (1978).

Error in a damage instruction is harmless when a proper verdict of non-liability is entered. *American Oil v. Columbia Oil*, 88 Wn.2d 835, 567 P.2d 637 (1977). An instruction on a matter unrelated to any theory of the parties is superfluous, but harmless unless either party demonstrates that it was prejudicial or misled the jury. *State v. Daley*, 29 Wn. App. 55, _____ P.2d _____ (1981).

(3) Specificity of Instructions

When an instruction is a correct statement of the law but is objected to as too broad or insufficiently specific, a proper instruction must be proposed. *American Oil v. Columbia Oil, supra*. Where the instructions only apprise the jury of the claims of the parties in general on abstract terms, it is grounds for reversal, where a proper instruction was proposed. *Pearce v. Motel 6, Inc.*, 28 Wn. App. 474, 624 P.2d 215 (1981).

An appeal from a trial to a jury does not allow for the technical attack on a judgment that is possible on the Findings of Fact and Conclusions of Law in a trial to the bench, but it offers an opportunity to be creative in your statement of facts (always closely adhering to the record, of course) with no findings of fact to bind you. Such creativity requires the expensive verbatim report of proceedings and care to make sure your statement is accurate, but it can considerably improve chances on appeal. □

Protecting Property Interests without Violating the Bankruptcy Code's Automatic Stay

by **Kenneth S. Treadwell** and **Frederick P. Corbit**

For attorneys who infrequently practice in the bankruptcy courts, the most frustrating provision of the Bankruptcy Code is Section 362. After a petition for relief is filed, Section 362(a) provides a broad and automatic stay of all actions which would interfere with property of the estate or the debtor.

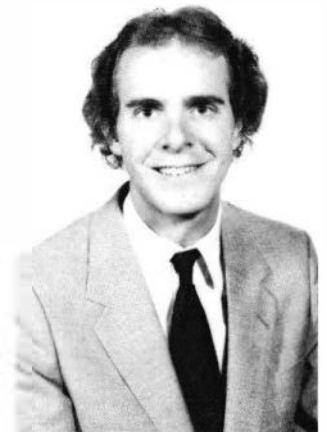
The stay, however, does not prevent attorneys with a modicum of knowledge about the Code from effectively representing creditors' interests. An attorney confronted with Section 362 can choose from a number of alternatives superior to proceeding in violation of the stay. In each fact situation the Code should be analyzed to see if there is any applicable exception to the stay; if there is none, counsel may seek relief from the stay, move for the assumption or rejection of a lease or executory contract, move for the abandonment of the debtor's property, or wait for the termination of the stay.

Exceptions to the Stay

Although the stay is applicable in most cases, the exceptions found in Section 362(b) should be reviewed before using other provisions of the Code to protect creditors' property interests. Of the eight exceptions only the second, third, and sixth apply to attorneys engaged in private practice in the civil sector. Section 362(b)(2) excepts from the stay the collection of alimony, maintenance, or support from property that is not part of the estate. The property of the estate includes all legal or equitable interests of the debtor in property, wherever located, as of the date the case is commenced. 11 U.S.C. § 541(a)(1). Thus, the stay does not apply to collection of support from property acquired after commencement of the case, exempt property, and property that does not pass to the bankruptcy estate. The Section 362(b)(3) exception allows perfection of a lien after the filing of the



Judge Kenneth S. Treadwell is presently a Bankruptcy Judge for the Western District of Washington at Seattle. He practiced law in Seattle for several years before being appointed to the bench in 1967.



Frederick P. Corbit graduated from UCLA Law School in 1980 and practiced law in Seattle for a year at the offices of Lasher & Johnson before taking a leave of absence to be Judge Treadwell's Law Clerk.

bankruptcy petition if the time for perfection under state law has not expired. Section 362(b)(6) permits certain setoffs in commodities and securities transactions.

The other exceptions in Section 362(b) relate to criminal actions, governmental exercise of regulatory powers, proceedings by the Secretary of Housing and Urban Development to foreclose on mortgages, and the issuance of tax deficiency notices.

In addition to Section 362(b), Sections 1110 and 1168 provide narrow exceptions by which creditors with purchase money security interests may recover aircraft, vessels or rolling stock equipment from Chapter 11 debtors.

Grounds for Relief from the Stay

If no exceptions to the stay are available, one way to proceed is to seek relief pursuant to Section 362(d). Upon the request of a party in interest, and after notice and hearing, the court may grant relief from the stay for cause, or grant relief for actions against property in which the debtor has no equity and which is unnecessary for an effective reorganization.

The first ground upon which the court can terminate, annul, modify, or condition the automatic stay is for cause. 11 U.S.C. § 362(d)(1). The Code specifically provides that lack of adequate protection constitutes

cause for relief. A creditor's property interests may be inadequately protected, for example, where there is diminution in value due to depreciation, physical loss or damage. Section 361 sets forth methods of providing adequate protection. The comments to the Code point out that other causes for relief include a desire to permit completion of an action in another tribunal and an absence of interference with the orderly progress of the bankruptcy case. H.R. No. 95-595 95th Cong., 1st Sess. 343-4 (1977).

The second ground for relief from the stay applies to acts against property in which the debtor lacks equity and which is unnecessary for an effective reorganization. 11 U.S.C. § 362(d)(2). This section may solve the problem created when a mortgagor files a bankruptcy petition on the eve of foreclosure. The only justification for continuing the stay when the debtor lacks equity is that the property is needed to continue the debtor's business affairs in a Chapter 11 or 13 proceeding. In cases where property is needed for reorganization, but the debtor lacks equity, the interests of creditors must be adequately protected in order to maintain the stay. In Chapter 7 cases, where reorganization is irrelevant, it has been held that relief from the stay must be granted where there is no equity in the property. *In re Preuss*, __ B.R. __, 8 BCD 563 (1981).

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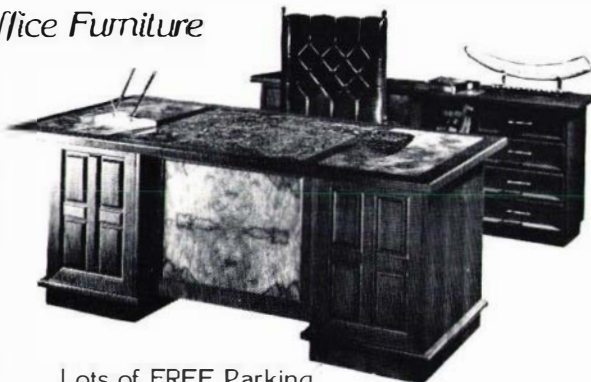
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Procedure for Obtaining Relief from the Stay

In March of 1982, a preliminary draft of proposed bankruptcy rules was circulated for public comment. This draft has not been presented to the Judicial Conference or the United States Supreme Court for consideration. If adopted as proposed, the rules would change procedures used to obtain relief from the stay. In the Western District of Washington, four procedures are presently used to obtain relief from the stay: first, summons and complaint; second, request for hearing and notice of presentation; third, *ex parte* relief pursuant to Local Rule 4001(b); and fourth, presentation of a stipulated order. The proposed bankruptcy rules require that a request for relief be by motion.

Under either existing procedures or that set forth in the proposed rules, a preliminary hearing must be held within 30 days of filing a request for relief from the stay. In most bankruptcy courts the parties should be ready to present evidence supporting their arguments on the stay issue at the preliminary hearing because relief can be granted at that point. However, the court can continue the stay for another 30 days pending a final hearing. In any hearing on the stay, the party requesting relief has the burden of proof only as to equity in the property of the estate; the party opposing relief bears the burden on all other issues. 11 U.S.C. § 362(g). For example, after the party requesting relief alleges that its property is not adequately protected, the burden of proof on that issue falls on the opposing party.

Summons and complaint is the most common procedure used to obtain relief from the stay under Section 362. This procedure allows plaintiffs to allege causes of action in addition to their request for relief from the stay. For example, a mortgagee could seek relief from the stay in a first cause of action and then seek foreclosure of the mortgage in the bankruptcy court as a second cause of action. Additional causes of action are heard at the preliminary hearing only to the extent that they pertain to the relief of stay issue. When relief is granted at the preliminary or final hearing, the additional causes of action, counterclaims and offsets will be set for trial in the bankruptcy court.

As a simpler alternative to the summons and complaint procedure, some judges interpret Sections 362(d) and (e) to allow the use of the request for hearing and notice of presentation procedure. The request is similar to a complaint in that it should allege the basis for relief and pray for an appropriate order. The notice of presentation, which is served with the request on other parties, states that unless a hearing is requested, an order granting relief from the stay will be presented within 30 days. Such a hearing would be analogous to a preliminary hearing in the summons and complaint procedure. Unfortunately, an attorney will not know until after filing for relief

whether the assigned judge permits this procedure. Judges that do not accept the notice of presentation method have treated the request for relief as though it were a complaint. The acceptable procedures for requesting relief from the stay under Section 362(d) will be questioned until new rules are promulgated.

Section 362(f) and Rule 4001(b) of the Local Interim Rules for the United States Bankruptcy Court for the Western District of Washington authorize the court to grant *ex parte* relief to avoid irreparable damage. Local Interim Rule 4001(b) requires a verified complaint or an affidavit and complaint showing specific facts pertaining to the immediate and irreparable injury that would result before the adverse party could be heard. Furthermore, the rule requires attorneys to certify their attempts to give notice and the reasons why notice should not be required. Rule 4001(c) of the proposed bankruptcy rules is similar to Local Rule 4001(b) except that under the proposed rule a motion would be used instead of a complaint.

The easiest and least expensive way to obtain relief from the stay is by stipulated order. The stipulated order minimizes court appearances and paper pushing, and costs only three dollars to file in the Western District of Washington. *See, In re Mullins*, 10 B.R. 346, 7 BCD 632 (1980). The three other methods for obtaining relief available in the Bankruptcy Courts in Western Washing-

ton are treated as adversary proceedings which require a sixty dollar filing fee.

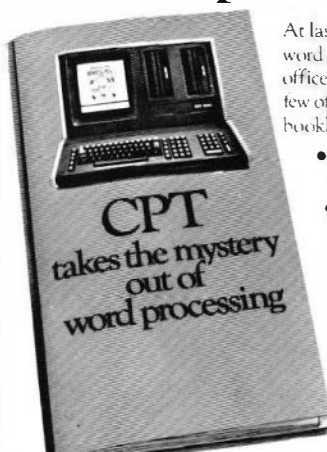
Under proposed bankruptcy rules 4001 and 9014, relief from the stay would be a contested matter and not an adversary proceeding. Parties seeking relief would file a motion in the bankruptcy case as opposed to the present procedures which require the initiation of a separate action.

Assumption or Rejection of Executory Contracts and Leases

The Code's special treatment of executory contracts and leases enables creditors to protect their interests without first obtaining relief from the stay. In Chapter 9, 11, or 13 cases, an interested party may request an order requiring the trustee or debtor in possession to assume or reject an executory contract or unexpired lease within a specific period of time. 11 U.S.C. § 365(d)(2). The request should be by motion with all interested parties receiving notice. *See*, Local Interim Bankruptcy Rule 9002. The request procedure is not applicable to Chapter 7 cases. However, an executory contract or lease is deemed rejected if the Chapter 7 trustee does not assume, or obtain a court order extending the time for assumption, within 60 days after the bankruptcy petition is filed. 11 U.S.C. § 365(d)(1). An executory contract, as the

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term is used in the Code, is defined as one "... which neither side has fully performed at the commencement of bankruptcy". Fogel, *Executory Contracts and Unexpired Leases in the Bankruptcy Code*, 64 Minn. L. Rev. 341, 344 (1980).

If a specific time period is not set for assumption or rejection, the trustee or debtor in possession remains free to delay the decision until the confirmation of the plan. The advantage to the creditor in shortening the time period stems from Section 365(b)(1) which sets forth three prerequisites for assumption of an executory contract or lease: first, any default must be cured or adequate assurance of cure provided; second, compensation or assurance thereof for pecuniary loss from the default must be made; and finally, the debtor must provide adequate assurance of future performance. When a contract or lease is assumed, the requirements of Section 365(b)(1) are designed to insure that creditors receive the benefit of their bargain. A debtor's rejection, on the other hand, would give rise to a breach of contract claim.

If, for some reason, a debtor does not perform assumed obligations the creditor is in a better position than if there had been no assumption. Assumption creates a new administrative obligation of the estate which has a higher priority than a prepetition claim. See 11 U.S.C. § 507. Furthermore, in a Chapter 9, 11, or 13 case, an

assumed contract or lease is not discharged because it is a postpetition obligation.

Abandonment of Property

Under certain limited circumstances, a motion for abandonment of property of the estate can be a useful tool in protecting creditors' interests. Section 554 of the Code provides that upon request of a party in interest, and after notice and hearing, the court may order abandonment of property. There are three obstacles to creditors' effective use of the abandonment procedure: first, the property must be of inconsequential value or burdensome to the estate; second, property can be abandoned only to a party with a possessory interest; and third, the automatic stay continues to protect the debtor after abandonment.

The requirement that property must be burdensome or of inconsequential value to the estate does not prevent creditors from using the abandonment procedure to their advantage. Property with great intrinsic value may be abandoned where, because of encumbrances, it has inconsequential value to the estate.

The legislative history of Section 554 states that "abandonment may be to any party with a possessory interest in the property abandoned". H.R. No. 95-595, 95th Cong., 1st Sess. 377 (1977); S.R. No. 95-989, 95th Cong., 2d Sess. 92 (1978). This means that property

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cannot be abandoned to parties such as mortgagees, who do not have rights to control the collateral without foreclosure and sale according to law. *See, Howard v. Edgren*, 62 Wn.2d 884, 385 P.2d 41 (1963). The possessory interest requirement, therefore, restricts a creditor's practical use of Section 554 to abandonment of personal property.

It is significant to whom the property is abandoned because actions against the debtor remain stayed. A creditor must obtain relief from the stay to enforce lien rights against property abandoned to the debtor. *In re Motley*, 10 B.R. 141, 7 BCD 477 (1981). Such relief is not necessary, however, where property can be abandoned to the moving party because it has a possessory interest.

Termination of the Stay

The stay of acts against property continues as long as the property is part of the estate. The stay's protection of the debtor, however, terminates when the case is closed, dismissed, or the discharge granted or denied. In no-asset cases, it may be to the creditor's advantage to save the cost and effort of obtaining relief from the stay by waiting for entry of the discharge order.

Conclusion

Creditors need not suffocate in the breathing room

provided to debtors by the automatic stay. The Bankruptcy Code sets forth exceptions to the stay and enables creditors to protect their interests by obtaining relief from the stay, moving for the assumption of an executory contract or lease, or requesting a trustee to abandon property of the bankruptcy estate. □

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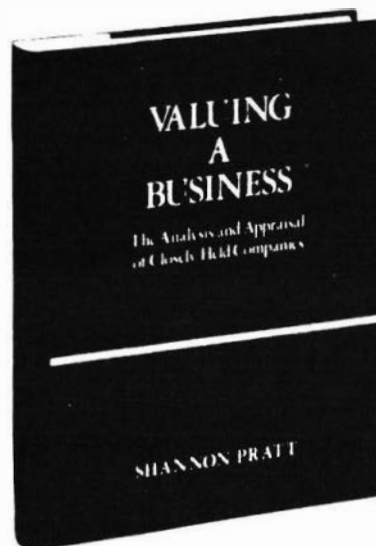
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The Judicial Qualifications Commission: Status Report

by F. Lee Campbell

During the past several months I have been asked on numerous occasions to report on the status and progress of the newly-formed Judicial Qualifications Commission. This article is a brief status report to the judges and lawyers of Washington.

In November of 1980 the voters of this state adopted an amendment to Article IV, Section 31, of the Constitution of the State of Washington, creating a Judicial Qualifications Commission. Washington thereby became the last state to establish a system for judicial discipline. Implementing legislation was enacted by the 1981 legislature and the Commission became official, as a part of the judicial branch of government, on July 1, 1981.

The name of the Commission is somewhat misleading. It is frequently construed as designating an agency which decides whether lawyers are qualified for service on the bench. The sole purpose of the Commission is to review complaints made against judges and justices. It has the authority to recommend to the Supreme Court, after notice and hearing, the censure, suspension or removal of a judge or justice for violation of a rule of judicial conduct or the retirement of a judge or justice for disability which is permanent, or likely to become permanent, and which seriously interferes with the performance of judicial duties. It does not have authority to review judicial decisions or opinions.

The Commission includes three judges, two lawyers and two non-lawyer citizens. One of the judges is a member of the Court of Appeals, one is a Superior Court judge and the other is a District Court judge. They are appointed by their respective groups. The two lawyers are appointed by the Board of Governors of the Washington State Bar Association and the two non-lawyer citizen members are appointed by the Governor, subject to Senate confirmation. Those currently serving are: Greta Bryan—Non-lawyer citizen member, Yakima, Ann

Sandstrom—Non-lawyer citizen member, Yakima, Hon. Ray E. Munson—Court of Appeals, Division III, Hon. Robert J. Bryan—Superior Court, Kitsap County, Hon. W. Laurence Wilson—South District Court, Lynnwood, F. Lee Campbell (Chairperson)—Lawyer, Seattle and William W. Baker (Vice-Chairperson)—Lawyer, Everett. Alternates are designated by each appointing authority, to serve during a member's temporary disability, disqualification or inability to serve. Current alternates are Hon. Herbert A. Swanson (Court of Appeals), Hon. Frank D. Howard (Superior Court), Hon. John A. Schultheis (District Court), Robert R. Beezer (lawyer), and Robert R. Redman (lawyer). The Governor has not yet appointed lay member alternates.

During the summer of 1981, Esther Garner was selected to serve as Executive Director and the Commission established an office in the 12th & Jefferson Building in Olympia. An administrative assistant, Barbara Painter, was hired and the Commission became fully operational on September 1, 1981.



Seattle attorney F. Lee Campbell is the King County-at-large representative on the Board of Governors and the chairperson of the Judicial Qualifications Commission.



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Between March and September, Commission members met frequently for the purpose of drafting rules. Following distribution of proposed rules and a public hearing held in Seattle, a final set was adopted in October. These have now been published and are designated JQCR.

As of December 31, 1981, sixty complaints against judges had been received. These included many which had been submitted between the date of voter approval of the Constitutional Amendment and the date upon which the Commission became operational. The sources were as follows:

Litigants	48
Non-litigating family members	5
Non-litigating citizens (complaining witnesses)	2
Lawyers	2
Public officials	2
Commission initiated	1

The levels of courts involved were:

Superior Court	34
District Court	19
Municipal Court	6
Court of Appeals	1

In some complaints more than one judge was named. Three complaints were against pro tempore judges. Four were against commissioners, over whom the Commission has no authority.

The complaint most frequently received alleged that the judge involved had rendered an unfair or unreasonable decision. As the Commission has no authority to review such matters, those have been dismissed with an appropriate explanation to the complainant in each instance. The following indicates the categories and numbers of complaint allegations received through December 31, 1981:

Erroneous judgment	38
Administration inefficiency (ex: delay in rendering opinion)	14
Injudicious temperament	11
Improper influence	8
Prejudice	7
Corruption/fraud	3
Conflict of interest	1

Obviously the above figures total more than the 60 Complaints received. This is because some contained more than one allegation of misconduct.

It is interesting to note that approximately one-fourth of the complaints received stemmed from domestic relations matters, particularly child custody and division of property through dissolution proceedings.

By the end of 1981, the Commission had disposed of 33 complaints by dismissal. The others then pending

were still under investigation and review. As of the date of this writing (February 15, 1982) eleven additional complaints have been made, bringing the total received to 71. Following thorough preliminary investigations, an admonition has been given to one judge and a formal hearing is contemplated for another. No recommendation for discipline or retirement has yet been submitted to the Supreme Court.

The Constitutional Amendment which established the Commission required that the rules to be adopted provide for confidentiality. It was the decision of the Commission that all proceedings and papers relating to complaints be kept confidential unless a special exception is made in accordance with the rules. If an exception is not authorized, the only documents which will be made public are recommendations of the Commission filed with the Supreme Court, together with findings of fact and conclusions of law relating to each recommendation. Such disclosure will not take place until the filing is accomplished.

Members of the Commission are firmly committed to the goal of maintaining confidence in our judicial system and preservation of the integrity of our courts. A balance must be maintained between judicial independence and public accountability. We believe that meritorious complaints against judges warrant prompt and appropriate remedy. On the other hand, we feel a definite responsibility

to judges, as elected officials, whose careers could be seriously damaged by false or inaccurate charges.

Time and space do not allow me to comment further regarding the Commission rules. They were published in the November 27, 1981 Advance Sheets and are to be incorporated within 96 Wn.2d, 1011-1016.

I must conclude by stating that I have never worked or served with a group of people more determined to successfully accomplish an assignment than those who are serving with me on the Judicial Qualifications Commission. Since the Constitutional Amendment was adopted they have devoted a tremendous amount of time and effort in the organization of the Commission, promulgation of rules and consideration of complaints. As Executive Director, Esther Garner has also put in countless hours and Commission members feel that their decision to select her was probably the best and most important one made to date. I can assure the judges and lawyers of this state, as well as the public, that the responsibilities of the Commission will be fully met and carried out to their satisfaction. I intend to submit additional status reports to the *Bar News* in the future.

Inquiries regarding the Commission should be directed to: Esther Garner, c/o Judicial Qualifications Commission, 12th & Jefferson Bldg., Olympia, WA 98504, (206) 753-4585. □

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WASHINGTON STATE BAR NEWSLINE

The Board's Work



by Steven A. Reisler

BOARD RECOMMENDS LIMITED PRACTICE RULE TO SUPREME COURT

PORT ANGELES, April 16-17 -- Less than six months after the Washington Supreme Court rendered its opinion in Hagen & Van Camp v. Kassler

Escrow, Inc., the Board of Governors

has endorsed and recommended for approval by the Supreme Court a "limited practice" rule which will permit certain real estate transactions to be performed by non-lawyers.

It was obviously a bitter pill to swallow. In Western Washington, particularly in King County where few lawyers have developed a real estate closing business, the Kassler decision did not cause a ripple. In Eastern Washington, however, where lawyers have traditionally performed real estate closings, the Kassler decision sounded like the greatest thing since trial by jury. For the state's escrow industry, on the other hand, the Kassler decision was viewed as the kiss of death. And the escrow industry, so its representatives had told the Board, was not about to let its industry die without a fight (see, Bar News 36:2:26, 36:4:30).

Although the Board endorsed the concept of a limited practice rule at its Yakima meeting, it postponed a final vote until the Special Task Force could circulate copies of the proposed rule to local bar associations and discuss the matter with interested Spokane County lawyers (see, Bar News 36:4:30). There was a strong minority sentiment expressed at the April meeting for still another postponement and for more discussion. Sixth District Governor Comfort (who ultimately voted with the majority for endorsement of the rule) initially proposed that a vote on the limited practice rule be postponed until the May meeting in Spokane. His request for a delay was supported by Fifth District Governor Dean who reported that at least three of his constituent county bar associations either has requested an extension of time or opposed the concept of a limited practice rule altogether. Specifically, Dean urged the Board to disseminate copies of the proposed rule to the general Bar for comment. Fourth District Governor Read reported that the Young Lawyers Association of Clark County wanted an extended comment period, too.

Third District Governor Vander Stoep, a member of the Special Task Force chaired by David Hoff, vigorously opposed any further delay. He said that input from lawyers had been solicited and it had been received. Vander Stoep further said that additional input was unnecessary at this point because the Supreme Court, not the Board of Governors, would be the final judge of the rule. Under its standard procedures, the Supreme Court invites lawyers from around the state to comment on proposed rules of practice.

Second District Governor Dewell moved that the limited practice rule be endorsed and submitted to the Supreme Court for approval. Paul Steere from the First District seconded the motion. King County Governor Loftus indicated he would vote for the motion. Both Loftus and Seventh District Governor Beezer agreed that their constituents in King County did not feel particularly threatened by a limited practice rule. Pat Comfort pointed out, however, that Western Washington lawyers had given away the real estate business long ago, thus it was not surprising that they were out of tune with the economic concerns of their brethren in eastern and southern Washington.

To allay the fears of some, Jim Vander Stoep and Task Force member Jim Purcell reminded the Board that the limited practice rule contemplated only those transactions which fit certain standardized forms. If the transaction did not fit the form, then a lawyer's services were necessary. It was the Task Force's intent that laypersons could not modify those standardized forms. It was furthermore the intent of the Task Force, Vander Stoep stated, that ethical rules would follow in the wake of a limited practice rule.

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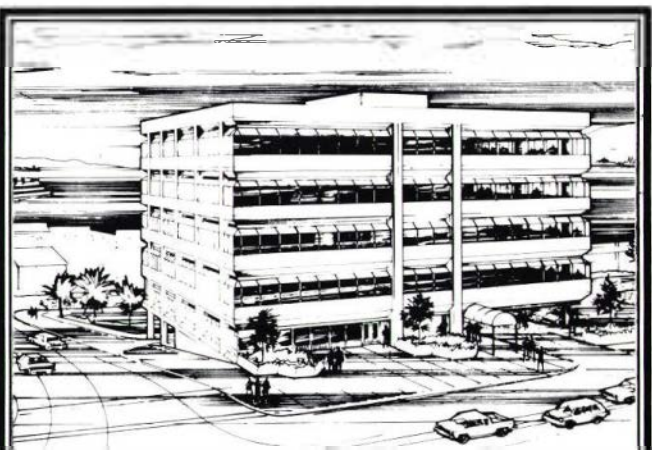
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Vander Stoep told the Board that the Supreme Court's Kassler decision was a frank, courageous and well-reasoned analysis of an issue which some other state supreme courts have simply ducked. Practically speaking, Vander Stoep said, the choice was between a limited practice rule, such as had never before been attempted, and a constitutional amendment which would give the legislature the power to determine what is the practice of law. The constitutional amendment route, he warned, would not have the built-in safeguards of a limited practice rule.

By a 7-2 vote, the Board approved the rule and submitted it to the Supreme Court for consideration. Jack Dean and Dale Read voted against approval. Governor Read opposed the draft rule particularly because he believed it required tightening and more precise language. The Supreme Court may now process the proposed rule under its emergency rule-making power or process it in the ordinary fashion.

OTHER BOARD ACTIONS...

- NEW WSBA PRESIDENT -- By unanimous vote the Board of Governors elected Paul Steere to be President of the State Bar Association in 1982-83. This summer Steere ends his three-year tenure as Governor from the First Congressional District.
- ADMINISTRATIVE PROCEDURE -- Robert Felthous and U.W. Professor William Anderson asked the Board to give its general support to the work of the Task Force on Administrative Procedures. The Task Force is endeavoring to design simplified and standardized revisions to the Administrative Procedures Act. By general consensus the Governors agreed to put off a decision on the Task Force's request until the May meeting.
- TEL-LAW -- Young Lawyers Section Chairperson Paul Larson advised the Board about the costs and feasibility of a state-wide tel-law program such as those currently in place in King, Pierce and Spokane Counties. According to Larson, if a state-wide system is set up, it would be most economical to hook up a toll-free telephone system with King County's present system.
- PHOTOCOPIES OF BAR EXAMS -- Acting on the recommendation of James Judson of the Executive Committee of the Board of Bar Examiners, the Governors voted 9-0 to permit failed Bar examinees to photocopy their answer booklets beginning after the summer of 1982 examination. Washington Women Lawyers representative Anne Kruse endorsed the proposal as conducive to a fairer, more open examination procedure.

THE NEXT MEETING OF THE BOARD OF GOVERNORS WILL BE IN SPOKANE, MAY 14TH & 15TH.

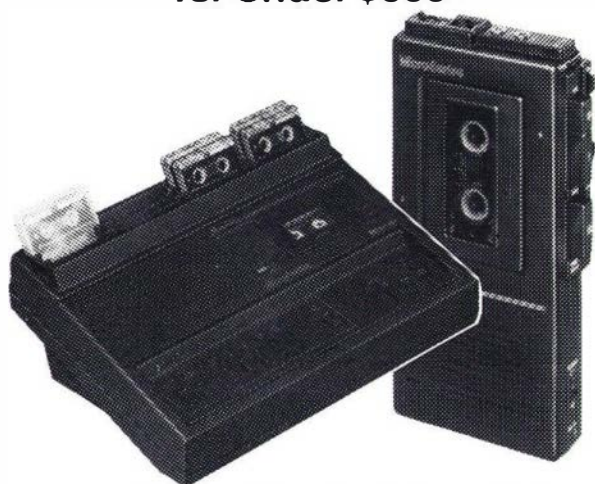


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This year's *Corporation, Business & Banking Mid-Year Meeting* is being held in Richland from May 21-23, 1982. Co-sponsored by the Taxation Section, the focus of the program is on business planning in light of recent statutory and administrative developments at the state and federal levels. Each seminar examines those legislative and administrative changes from a practical business planning perspective and will provide you with written materials that should prove valuable to your business practice. You will learn how to modify limited partnership agreements and corporate articles of incorporation and bylaws. Model forms with commentary will be provided. The tax seminar presents a planning outline for general practitioners that considers the 1981 Economic Recovery Tax Act, as well as planning considerations for the acquisition of tax attributes of failing companies under the Bankruptcy Tax Act of 1980. The securities program covers SEC Regulation D and other regulations affecting the financing of smaller businesses in Washington. Other seminars will cover the new legislation regarding the Secretary of State's Office and the revision of its procedures and operations and special issues for corporate counsel. If you represent a business or have a substantial portion of your practice devoted to business law, you won't want to miss this one.

On June 9 in Seattle, June 18 in Spokane, and June 25 in Olympia, a seminar on the *Legal & Business Problems of the Forest Products Industry* will be presented. This full-day program begins with an economic overview of the forest products industry. Both State and Federal timber sales and purchases will be covered from a government and an industry view. In addition, private timber sales and purchases will be covered. We are very pleased to announce that the program luncheon speaker will be the Honorable Brian J. Boyle, Commissioner of Public Lands. Commissioner Boyle will speak about the current problems of the industry and in particular those faced by the State of Washington. Other topics to be covered are on business planning and structure, with an emphasis on financing; land investments and taxation, with an emphasis on tax shelters; and the regulatory structure, specifically the permit process, from an industry and an environmentalist point of view. This program will be open to both attorneys and others involved in the forest products industry.

The Washington State Bar Association and its Taxation Section will present an *Advanced Taxation Seminar* in beautiful Sun Valley, Idaho. Scheduled for June 9-12,

1982, this program is designed to provide current and practical information to professionals whose practices emphasize business and tax law considerations. The program will consist of three sessions of one-half day each, presented by specialists in the subjects involved and designed for practitioners with moderate experience in tax law.

The subjects to be covered will include partnership taxation, including the use of family partnerships, executive "discriminatory" compensation plans, administration and judicial procedures relating to resolution of pension and profit sharing plan controversies, a general update on tax laws and the taxation of timber, oil, gas and geothermal properties.

The program materials and presentations will be designed to present "state of the art" information of special interest to practitioners who are involved in various aspects of business and tax planning as well as the resolution of tax disputes. Make *your plans* to attend now!

This year's *Criminal Law Seminar* is a full day program which will be held in Seattle at the Red Lion (Sea-Tac) on Thursday, June 3, 1982. An outstanding faculty has been assembled for this program; topics to be covered include: Criminal Practice on the State and Federal Levels, Plea Bargaining from the Perspective of the Defense and the Prosecutor at both the State and Federal

Levels, Multiple Representation, Duty of the Defense to Disclose, and Prosecutorial Discovery of Defense Investigation and the Work Product Doctrine. The faculty will also present Plea Bargaining Panel Discussion and an Ethics Panel Discussion.

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Personal Representative's Letter

by Harry E. Hennessey

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Re: Estate of

Dear

We appreciate your confidence in retaining us as your attorneys to handle the probate of your brother's estate. Now that the proceedings are well under way we are presenting to you copies of all instruments which have been filed in the Court. As additional instruments are filed, we will forward them to you and ask that you add them to this file so that you will have a current record of our progress at all times.

Your first duties as Executor were to prove the Will in Court, to secure a Court Order qualifying you to serve as Executor, to notify the other heirs of your appointment, to publish Notice to Creditors to file claims within four months, and to inventory all assets of the estate. As appears from the enclosed instruments, all of these functions have now been performed.

Directly following this letter is a list of duties of a personal representative. You may check these off and satisfy yourself that your responsibilities have been taken care of.

Your brother's Will contains a non-intervention provision designed to streamline probate proceedings as far as possible. As appears from your file, the court has entered an Order of Solvency authorizing you without further order of Court to proceed as Executor until the closing of the probate. Our next step is to prepare the Federal Estate Tax Return and the Washington State Inheritance Tax Return. While the bulk of the Washington State inheritance tax has been eliminated by Initiative 402, there is still a pickup tax assessed wherever there is a Federal Estate Tax which contains an item for deduction of state inheritance tax.

As we send you papers from time to time, please add them to this file. Please do not hesitate to inquire as to the reason for any step, as we are anxious that you, as Executor, have a full knowledge not only of what we have done, but the reason for doing it.

Very Truly yours,

HENNESSEY and CURRAN

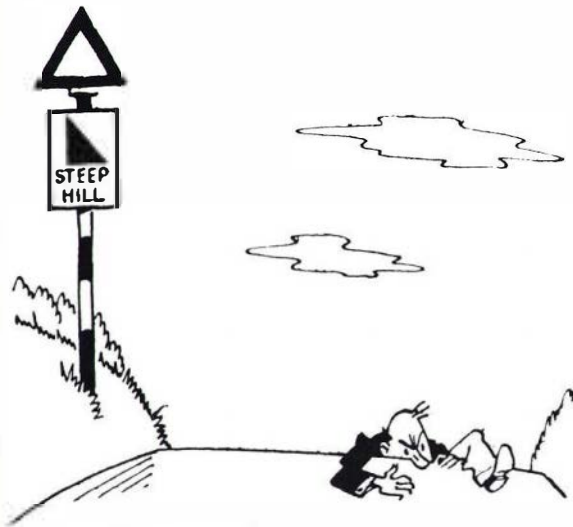
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Prepared by the Office Practice Committee, Harry E. Hennessey, Articles Coordinator, P.O. Box 5396, Spokane, WA 99205.

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EAST KING REPORT

by **BARRY J. HASSON**

As you read this, you are aware that the Washington State Bar Association's own magazine is still not above publishing trite gossip. It must be that, because I have been told that the resemblance between my column and fact is purely coincidental.

Take, for example, my recent article wherein I identified **Robert Williamson** and **Paul Hammann** as associates of the Inslee firm, and **James S. Turner** "Of Counsel" with that firm. Simply because I misidentified the firm, I received a scathing letter from Jim Turner. (Funny, I did not hear from the Inslee firm.) To show my remorse, regret, embarrassment (and because Turner said he'd sue me if I didn't), I want to quote Turner's quote of **John Rupp** on the issue of what "Of Counsel" means:

"Smith's alley-cat had been raising so much hell at night in the neighborhood pursuing female cats that his neighbors forced him to have his alley-cat 'fixed'. For a month or so after the operation the neighborhood was again quiet. Shortly thereafter, the din from the cats' cries was worse than before. When asked what happened, Smith explained that his alley-cat was now 'Of Counsel' to the other cats."

As the ink was drying on my last published column, the same Nelson and McCarthy law firm added two more associates: **Thomas K. Windus** and **Marcy L. Hikida**. Other new personages on this side of the lake: **Craig E. Coombs** with the Webster-Kroum law firm; **Jared C. Curtis** with the Inslee firm; and **David M. Shank** with **William J. Carlson**. Also new to the Eastside are **Douglas Schwed** of Dodd, Coney and Bishop; and **Duane Lund**, **Simon H. Forgette**, and **David Paul Williams** under the name of Lund, Forgette & Williams, Inc. **Gordon**

Creighton, **John Plovie**, and **Patrick Flannigan** of Creighton & Associates have moved to Redmond.

Simply because they like to see their names in print (and to be sure I continue to be invited to monthly trustee luncheon meetings), I hereby announce the following 1982 officers of the East King County Bar Association: President—**Ross D. Jacobson**, Vice President—**Thomas Whittington**, Treasurer—**Ray Dunlap**, Trustees—**William J. Carlson**, **Jerome D. Carpenter**, **Barbara L. Johnston**, **Christopher P. Frost** and **Ruth E. Darden**.

Tom, Chris, and Ruth are the rookies on the board, in a sense. Tom was previously a trustee and wanted to move up(?) Chris was elected, I guess, on the strength of his having been the overall winner of the EKCBBA golf tournament. (He shot a 68.) Ruth is a past president, and heaven knows why she wants to be a trustee now! So far as past president **Geoff Revelle** is concerned, people

surmise that he used that position as a stepping stone to being the brother of the King County Executive.

Further, I'd better sayeth not.

SOUTH KING REPORT

by **JUDITH R. EILER**

March came in like a trooper and found the South King County Bar Association meeting at the European Connection in Burien. Our "connection" was none other than Chief **Neil Maloney**, Chief of the Washington State Patrol. No arrests were made.

It is not true that the South King County Bar Association has no by-laws. At last report the by-laws were being confirmed, ratified and passed at the South King Trustee's meeting.

Announcements: **Kenneth P. Tickner** has opened his law office at 16400 Southcenter Parkway. The firm of **Eiler & Everitt** has added a new partner, **Jane C. Rhodes**, and will henceforth be known as: **Eiler, Everitt & Rhodes**.

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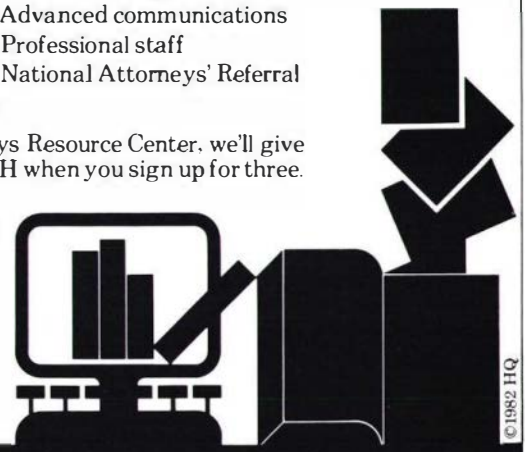
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Briefly Noted

The Justice Douglas Memorial at the Yakima Valley Museum Needs Help

The Justice Douglas Memorial at the Yakima Valley Museum must have help! They need additional materials from many sources (they have been assured full cooperation from the Library of Congress and the Smithsonian Institution). They also need financial help to build and maintain the Memorial. They earnestly solicit the full cooperation of everyone, of organizations and other agencies. The Washington State Bar Association at its March meeting of the Board of Governors agreed to lend its fullest support to this project.

Already the Museum is receiving requests from all over the country for research and informational material, and they will make the Douglas material available as soon as they can fund the project to a reasonable extent.

The Douglas collection includes, not only his office furnishings, but also a library of the books he wrote and of the many books referring to him. They have many photographs and a great amount of research material.

They do need your help! Donations should be made to the Yakima Valley Museum (Douglas Memorial), 2105 Tieton Drive, Yakima, WA 98902.

Trial Practice Skills Seminar

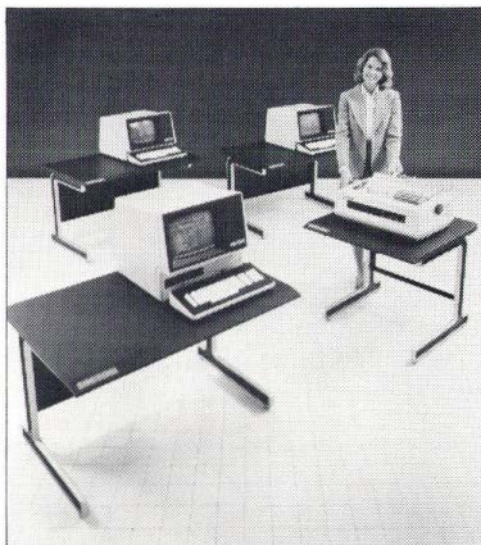
Spokane Young Lawyers will present a Trial Practice Skills Seminar May 22 and 23, 1982, at the Spokane County Courthouse. All newly admitted Bar members are encouraged to participate in the program which will consist of lectures on pretrial and trial techniques given by local members of the Bench and Bar. Participants will also take part in mock de-

positions and a mock trial. Witnesses will be played by members of the Spokane Civic Theater. Cost \$60.00. CLE Credits: 13 (tentative approval). Registration and Information available by contacting Jarold Cartwright, Seafirst Financial Center, Spokane, WA 99201, (509) 747-3021.

Attorney Employment Survey To Be Conducted in May

Washington Women Lawyers, in conjunction with the University of Washington Law School Placement Office, is surveying private firms, public agencies and other offices employing attorneys concerning their attorney hiring and promotion policies. A short questionnaire will be sent during May to legal offices in various parts of the state. The results should provide attorneys and law students with current information regarding factors which are considered

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in hiring and promoting attorneys, and the sexual and racial composition of Washington's urban and rural law offices. The participation of all of the offices surveyed will help ensure the accuracy of the survey, and a prompt response will mean that current information will be available this summer.

Young Lawyers Elections

The Young Lawyers Section of the Washington State Bar Association is actively looking for candidates from the current Sixth Congressional District and King County at large to run for election to the Board of Trustees. Applications and further information may be obtained by contacting Serni Reeves at the Washington State Bar Association, 505 Madison, Seattle, Washington 98104, (206) 622-6054.

The present Sixth Congressional District trustee is John M. Ennis of Tacoma. Ennis's term, along with

that of King County at large representative Arden J. Olson, expires at the close of the Section's annual meeting, tentatively planned for September, 1982. Elections shall be by mail prior to July 15.

Under the recently revised Bylaws of the Young Lawyers Section, the Board of Trustees is responsible for conducting and supervising the activities, programs, and affairs of the Section. The Section is composed of two types of trustees. One district trustee is elected from each congressional district and two from King County. Designated trustees are appointed by the governing body of affiliated organizations, including the Seattle-King County Bar Association, the Spokane County Bar Association, and the Pierce County Bar Association.

Under the Bylaws of the Association, the nominations and elections committee is required, prior to June 1 of each year, to select at least two candidates willing to run for each dis-

trict trustee position. Further information may be obtained by contacting Stew Cogan, chairperson of the Nominations and Elections Committee at (206) 587-0210.

Discipline

Notice of Disbarment

Benjamin A. Luchini, formerly of Everett, was disbarred by order of the Washington State Supreme Court on March 4, 1982. Mr. Luchini was disbarred based upon misuse of clients' funds, and false representations to the Court.

In Memoriam

Lewis S. Armstrong, 66, of Seattle, died March 15. He was admitted to the Bar in 1943.

Robert S. Macfarlane, 83, of St. Paul, Minnesota, died March 6. He was admitted to the Bar in 1921.

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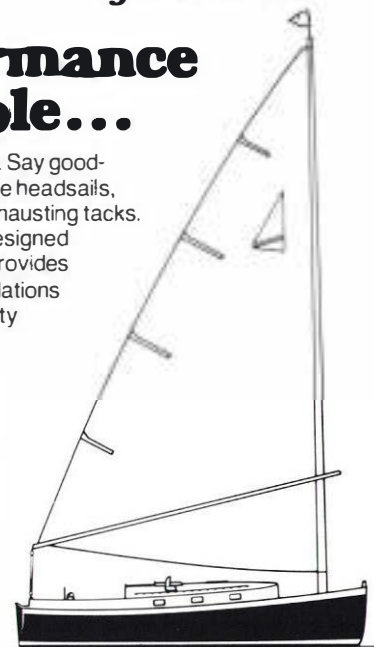
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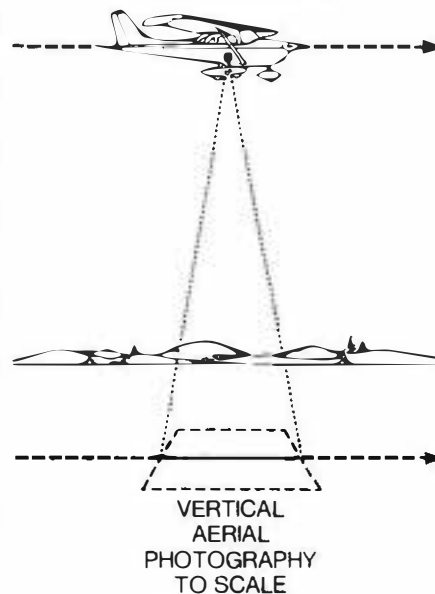
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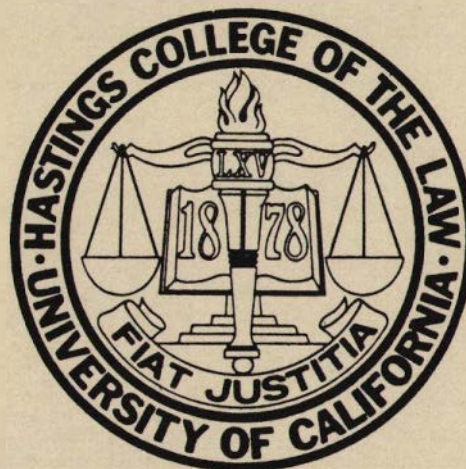
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