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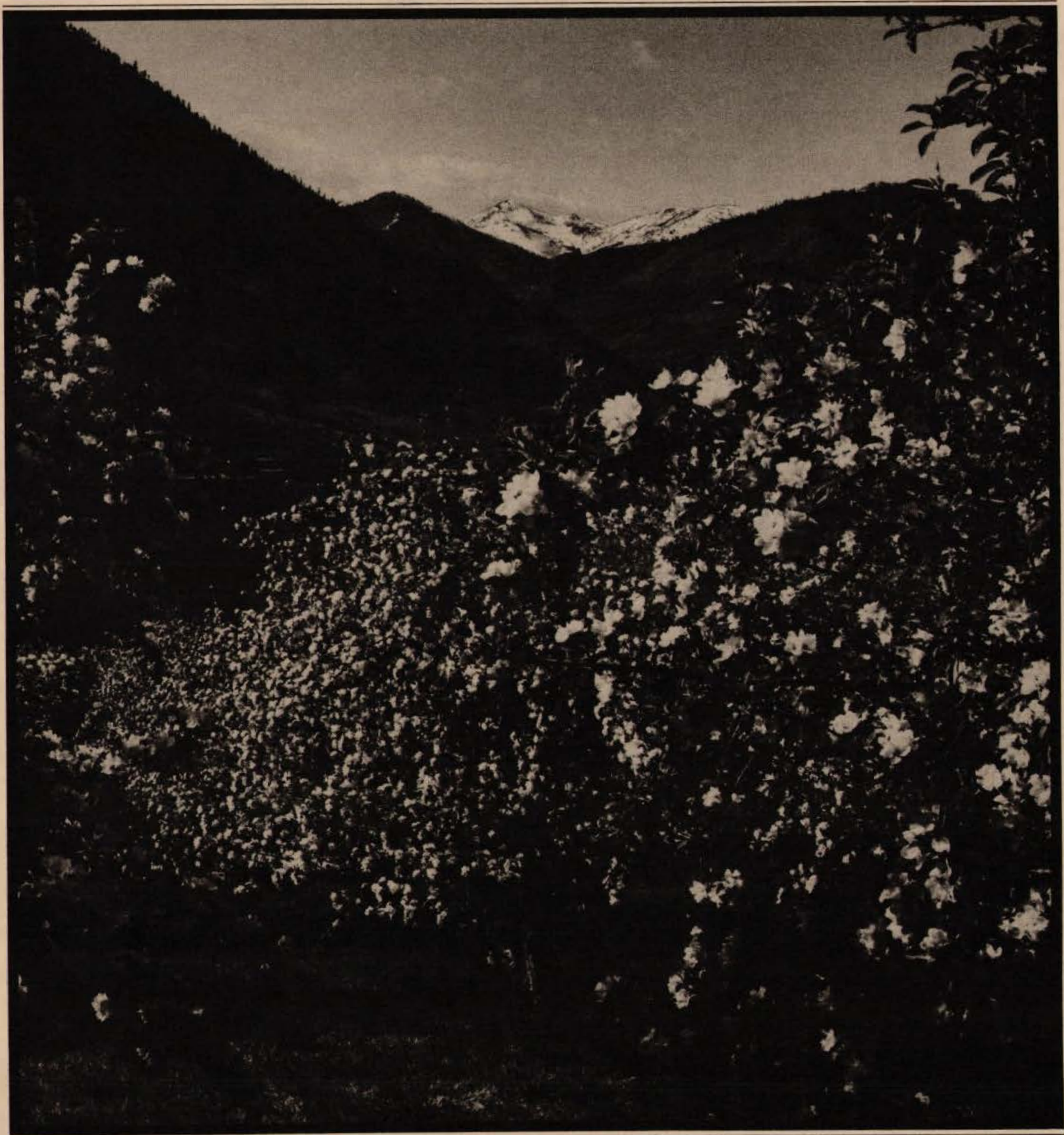
Washington State Bar News

Vol. 42, No. 5, May 1988



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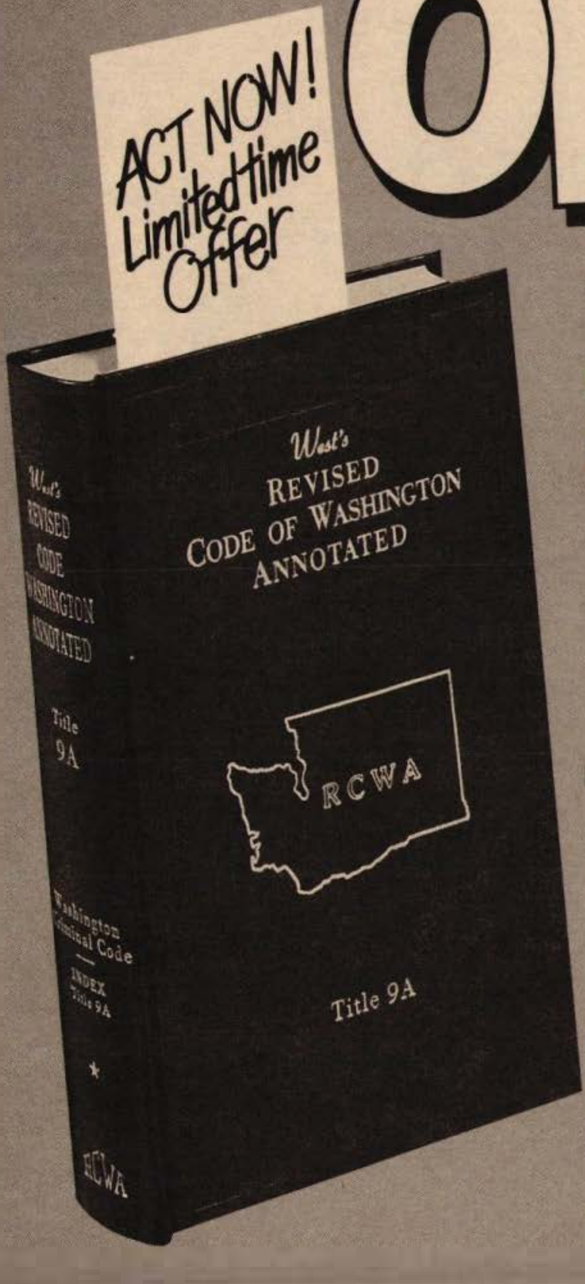

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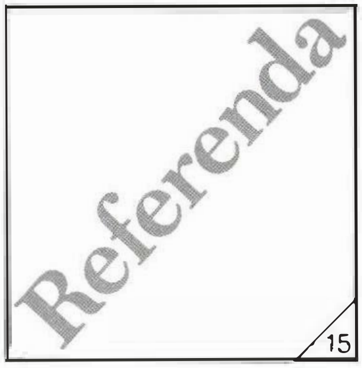

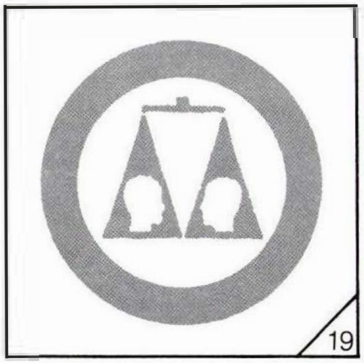

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LETTERS

Letters to the Editor of reasonable length are invited. Such letters should be typed and signed. The Editor reserves the right to select communications or excerpts therefrom for publication, and to edit any letter as may be appropriate.

A Taxing Subject

Editor:

I hope that Mr. Allendoerfer's alleged avocation of making his practice of law a work of art so that the product of his law practice constitutes "material goods" does not require the rest of us, on behalf of the state of Washington, to charge and pay over sales tax on all of our work product. I trust that barring a not uncommon inconsistency between the taxing regulations of the federal and state authorities, artists and musicians are responsible for sales tax on their work products or "material goods." I would hope Allendoerfer will forego his charitable deduction so that the rest of us do not have to collect and pay over sales tax.

CHARLES M. CRUIKSHANK III
Seattle

More On IOLTA Subsidies

Editor:

I would amend attorney S. Gay Cordell's March 1988 recommendation that some part of IOLTA funds be set aside for attorney malpractice self-insurance as follows:

> Participation in this pool would be contingent upon an attorney's meeting a minimum *pro bono* contribution annually.

This would spread the economic benefit around to those who actively support the purpose of the IOLTA fund.

KEITH T. McCLELLAND
Seattle

Is Law Hazardous?

Editor:

It may not be hazardous to your health to be an attorney. It is, however, hazardous to apply for major medical coverage if you are an attorney. On March 1, 1988, I received a letter dated February 5, 1988 from First Farwest Insurance Company, returning my application and premium with a note "[our] established policies to decline major medical coverage for attorneys." I do not smoke. I do not drink to excess. I do not have any physical, mental or emotional disabilities which would deny me any medical coverage. I have never been denied medical coverage by any other company for any reason. It would appear that this insurance company has determined that attorneys are bad for its health. I believe their decision to be punitive and not reasonably based on any medical or any other evidence that attorneys as a

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profession are high risk or should be declined medical coverage simply because of their status of employment.

I would like to know if other attorneys in the state of Washington have been declined major medical coverage simply on the basis of their profession.

JUDITH RAUB EILER
Federal Way

Challenging the Bar

Editor:

Thank you for all your hard work and dedication to the *Bar News* during the last three years as editor. Possibly now, due to your retirement, you will be appreciated more.

It was and is important for the editor of the *Bar News* to be an independent "practicing lawyer and active citizen" like you and to challenge various components of the Bar Association, as you have done. In 1987 alone, your Editor's Pages revealed your own high professionalism (the legal malpractice claim against you and your call for more pro bono responsibility), your call for better lawyering and less lawyer fighting, the problems of the language barrier of foreign parties, and your challenge to Bar committees to publish handbooks, just to name a few highlights.

I hope the next editor also remembers your concern that members understand the Bar administration through the "Board's Work" column which you wrote.

As is said to all retiring editors, "May the big Editor in the sky continue to watch over your scroll and pen."

GARY J. LIBEY
Colfax

In Touch with the Masses

Editor:

Your time as *Bar News* editor is about to end. You should be very proud of your accomplishments. You have been open, honest, responsive and in touch with the pulse of the "uncleansed masses"—the small-town practitioner, the small-firm practitioner, and the general practitioner. I, and certainly the other general practitioners in the state, appreciate all the hard work you put in.

JEFFREY L. TOLMAN
Poulsbo

A Poet's Farewell

Editor:
Re: The Retirement of a Secretary/Legal Assistant

I'll be 62 in a month and some days.
My hormones advocate changing my ways.
I'm leaving the land of Foreclosure in Lieu
To loll a full week in my pink nighty-pooh.
Henceforth all breaks will be Ad Infinitum
I won't give a damn who is Guardian ad Litem!

BEV CALLAWAY
Legal Assistant

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Pre-UnderPaid Legal Services

Editor:

I took a criminal case for an out-of-town client without retainer upon the assurance that the fee would be paid by a pre-paid legal service. I called the pre-paid and the service quoted my estimated billing. The service said it would pay any reasonable fee. After substantial work the criminal charge was dismissed.

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Mr. Jefferson Comes to Washington

Editor:

Though I am not a member of your involuntary association, a friend brought to my attention the remarks of one of the members of your Board of Governors as reported in the December 1987 *Bar News.* Frank Hayes Johnson was supporting a motion to double the number of signatures necessary for a referendum when he said, "The present situation to me is too much democracy."

Too much democracy? My own thoughts, and perhaps a warning to your officials are contained in a letter I wrote to my colleague Madison about two hundred years ago:

> I hold it, that a little rebellion, now and then, is a good thing, and as necessary in the political world as storms in the physical.

I also commented, in the same year, in a letter to William Smith, that

> [T]he tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure.

My friend Patrick Henry mentioned in a speech that

> Caesar had his Brutus and Charles the First his Cromwell and George the Third may profit by their example.

George, as we now know, did not profit by their example; perhaps the Board of Governors will.

"THOMAS JEFFERSON"
Member of the Bar of Virginia

Editor's Note:
John W. Weaver, Professor of Law, University of Puget Sound and a WSBA member, forwarded Mr. Jefferson's comments to the Bar News.

The Tip of the Iceberg

Editor:

The results of the WSBA Dues Referendum indicate that the respondents oppose the dues increase by a margin of almost 2:1. Notwithstanding the overwhelming sentiment expressed by the vote, the referendum fails because less than 50% of the active membership voted.

The Board of Governors should not casually disregard the referendum results, even though the required minimum percentage of voters did not respond. There *is* a message which the respondents to that referendum tried to convey. Perhaps it is going too far to suggest that the message is a vote of no confidence in the WSBA or its Governors. But I do believe that there is a message of dissatisfaction expressed in that referendum which the Board of Governors disregards at its peril.

If the message of the referendum is unclear, the Board should obtain clarification, then respond to whatever is bothering the one-third of the membership which voted against the position taken by its Board. That one-third may represent the tip of the iceberg.

JOE WISHCAMPER
Bellevue

Sleeping is Dangerous to One's Health

Editor:

Thank you for your hard work as *Bar News* editor these last three years. I'm sure that the slight pay works out to an embarrassingly small hourly wage, certainly a far cry from what you'd make devoting those hours to your law practice. I just hope that as you look back on these years, you find that the personal pleasure gained from the experience outweighs the many sacrifices that came with it.

Your February column moved me to write. Regarding "The Opportunities Are There," I will say this: Every year I become more and more concerned about the absence of participation by the great majority of our citizenry in the democratic process. The more people sleep, the easier it is for those who don't to run everyone and everything just the way they want to. It shows as the real, tough questions are increasingly ignored and the irrelevent ones are fabricated into major issues. If it's glamorous or sensational, it becomes "news" and dominates what most perceive as "important issues".

Meanwhile, the values and priorities that made this country strong are ignored and let crumble. Indeed, "the governed in a democratic society have every right to grumble about their governors..." However, I'd finish that sentence with "but they also have the responsibility to know what they are grumbling about."

As a non-practicing attorney for over six years, I find the monthly magazine to be about the only thing of value that I receive from the WSBA. I commend you for a job well done! Congratulations and best wishes with your newly acquired free time.

WARD WHITE
Olympia

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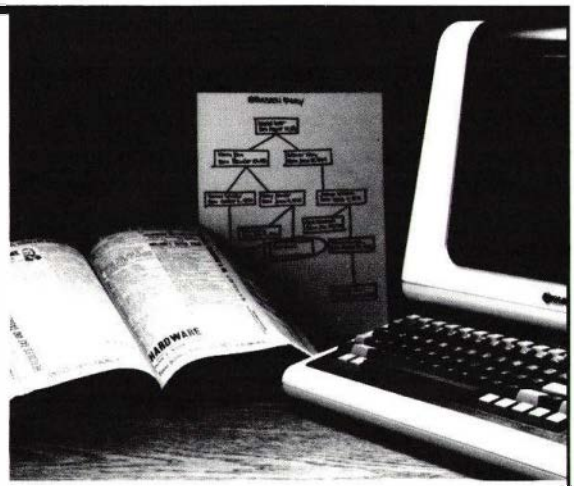

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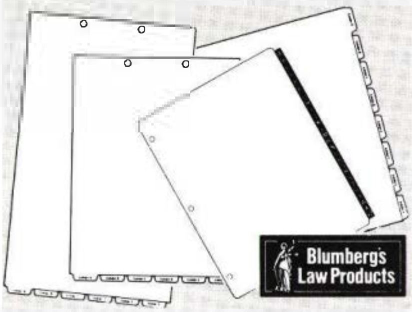

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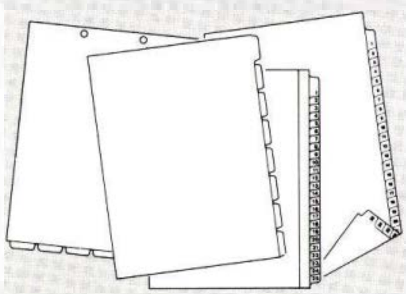

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Notes From the Academy

Edited by **Professor William B. Stoebuck**
University of Washington School of Law

Planning and zoning. (*Case 1.*) In largest, most important and definitive regulatory taking case in Washington history, state Supreme Court establishes following: *Principal Propositions of Law*: (a) Public trust doctrine restricts uses grantees from state and their successors may make of environmentally sensitive land, in this case second-class tidelands at mouth of Skagit River on Padilla Bay, Skagit County. When state of Washington received Orion's lands from federal government at statehood in 1889, they were impressed with trust for public to have access to navigable water. This trust included public rights of navigation, fishing, recreational uses, and possibly, depending upon findings of trial court on remand, aquaculture. When state sold lands to first grantees, lands continued to be impressed with same public rights, which, in hands of first grantees and their successors, including Orion, were similar to restrictive covenants. Despite Legislature's intent when it authorized these lands to be sold early in 20th century that they could be diked, filled, and farmed, no such uses were ever permitted, because public trust doctrine has always existed in Washington. (b) Regulations on land use, in this case Shoreline Management Act (SMA), Skagit County Shoreline Management Master Plan (SCSMMP), and possibly establishment of Padilla Bay Estuarine Sanctuary (Sanctuary), could not cause either denial of due process or regulatory taking if they did no more than to prohibit uses that public trust doctrine already restricted landowner from making. An owner cannot be deprived of something he never had. (c) Under prior Washington precedents, severe land-use regulations may, alternatively, constitute either denial of due process or regulatory taking. Tests of when regulations have such effects are essentially same, *i.e.*, whether regulation is "overly oppressive" on regulated owner (denial of due process) or whether it "goes too far" in diminishing market value (taking). "Crucial difference" is in remedy granted, *i.e.*, invalidation of regulation in case of denial of due process and compensation in case of taking. Therefore, prior Washington decisions that have declared regulations void on stated ground they caused takings are really due process decisions. (d) Under Washington law, if a regulation protects public from harm but, in doing so, is overly oppressive, it denies due process. But if it goes beyond what is necessary to protect public and goes too far, it is a taking. (*Comment.* Is this inconsistent with [c] above?—W.B.S.) (e) However, United States Supreme Court doctrine is different from Washington's. Under Supreme Court's doctrine, especially three important 1987 decisions, a regulation on land use may be a taking if it simply results in "a significant enough economic deprivation." Supreme Court does not recognize Washington's distinction (above) between denial of due process and taking. In order to avoid confusion and because U. S. Supreme Court's approach may provide broader protection to landowners, Washington adopts that approach. (f) Deprivation of use is so severe as to be a taking not merely because Orion cannot itself make a profitable use of its land, but only if, further, it cannot realize property's "reasonable fair market value through a sale to a nongovernmental buyer." (g) Under U. S. Supreme Court's approach, even a total deprivation of use is not a taking if the regulation is justified to protect public health or safety [or "welfare"?—W.B.S.]. (h) If a "temporary" regulatory taking occurs, United States Constitution, binding upon Washington, requires compensation, measured by "the leasehold value of the land for the period during which the regulation remained effective." (i) SMA and SCSMMP could not cause taking, no matter how severely they restricted plaintiff landowner, because they were for protection of public health and safety. (j) However, if restrictions on plaintiff came about by Sanctuary and if they were too severe economically, then a taking may have occurred, because Sanctuary did not exist to protect public health or safety. *Disposition of Case*: Remanded to Skagit County Superior Court to determine: (a) Whether, as result of public trust doctrine, Orion and its predecessors ever had a reasonably profitable use of its lands; (b) if answer to previous question is affirmative, whether SMA and SCSMMP deprived Orion of all reasonably profitable uses; (c) whether Sanctuary deprived Orion of all reasonably profitable uses; and (d) if answer to preceding question is affirmative, whether Orion can realize property's reasonable fair market value by sale to a nongovernmental buyer. There will be compensable taking only if answer to question (d) is negative. ***Orion Corp. v. State of Washington***, 109 Wn.2d 621, 747 P.2d 1062 (12/17/87). (*Case 2.*) Seattle Greenbelt Ordinance restricts use of about 900 acres of land. It overlays regular zoning in certain areas. Lots so designated that are 5,000 square feet or larger in size must be retained 50 percent in undisturbed natural state, and 20 percent more must be replanted. Smaller lots are restricted in somewhat different percentages. *Held*: Seattle Greenbelt Ordinance deprives affected owners of "any profitable use," is therefore a taking, and is therefore "invalid." ***Allingham v. City of Seattle***, 109 Wn.2d 947 (2/4/88). (*Comment. Allingham* does not cite *Orion*, reported above, or any of the three important 1987 U.S. Supreme Court taking decisions. According to statements in *Orion*, because the remedy granted in *Allingham* is invalidity, it is not a taking case but a case of denial of substantive due process. Thus, *Allingham* appears to be in the line of earlier Washington decisions, such as ***Granat v. Keasler***, 99 Wn.2d 564, 663 P.2d 830 [1983], which label overly severe landowner regulations as "takings." Apparently the state Supreme Court failed to coordinate its work on the *Allingham* and *Orion* cases, which were in process at the same time within the court.—W.B.S.)

(*Case 3.*) Washington's "vested rights" doctrine is applicable to State Environmental Policy Act (SEPA) as it applies to applications for land development. SEPA regulations incorporated various city policies governing land development, including building height limits contained in various policies. However, only policies that had been formally adopted at time owner applied for building permit could be incorporated. Therefore, court holds that city's policy governing height of multifamily buildings could not be considered, because such policy had not been formally adopted but was only proposed. ***Victoria Tower Partnership v. City of Seattle***, 49 Wn. App. 755, 745 P.2d 1328 (11/30/87).

W. B. Stoebuck

APPEAL: *The Ninth Circuit denied our opponent's petition for rehearing, but granted our request to modify the court's earlier decision. The court's decision was based on the response to a judge's question during reargument. This change saved our client from a potential exposure on remand exceeding $1,000,000.*

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We are pleased to have helped Alvin Anderson secure this result for Globe Machine Manufacturing Company. **J&J Log & Lumber Co. v. Globe Machine Manufacturing Co.**, Ninth Circuit No. 84-3788.

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Informal Opinion 88-1

Misleading Contingent Fee Advertisements Prohibited

Question

Does a lawyer advertisement which offers legal services on a contingent fee basis and which states that there will be no fee charged if nothing is recovered for the injured person but which omits the information stating that the client would be responsible for any costs incurred in connection with the representation violate RPC 7.1?

Short Answer

Yes, because it is false and misleading in that it omits a fact necessary to make the statement considered as a whole not materially misleading.

Discussion

An inquiry has been received regarding the propriety of placing advertisements which state that a lawyer will perform legal services on a contingent fee basis and that the client will be charged no fee if nothing is recovered on their claim. The advertisements, however, do not state that there may be litigation costs that would be chargeable to the client irrespective of the outcome of the case. The question presented is whether the failure to include the fact that, although no fees may be due, a client may be responsible for costs, constitutes a false or misleading advertisement.

This specific question was considered by the United States Supreme Court in *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 105 S.Ct. 2265, 85 L.Ed. 2d 652 (1985). In that case, the lawyer's advertisement informed the public "if there is no recovery, no legal fees are owed by our clients." The advertisement made no mention of the distinction between "legal fees" and "costs." The Supreme Court said "to a layman not aware of the meaning of these terms of art, the advertisement would suggest that employing appellant would be a no-lose proposition in that his representation in a losing cause would come entirely free of charge." The Court held that "the assumption that substantial numbers of potential clients would be so misled is hardly a speculative one" and that "a possibility of deception is... self-evident." The Court found that the state could require that lawyers disclose information regarding the client's liability for costs. See *Zauderer* at 652-653.

Similarly, in *Leoni v. the State Bar of California*, 704 P.2d. 183 (1985), the California Supreme Court held that it was misleading to send a solicitation letter to a prospective client which stated "FILING FEE: The cash money that you need to apply for an ORDER FOR DEBT RELIEF is sixty dollars. This one filing fee protects both husband and wife." The solicitation letter did not disclose that in addition to the $60 filing fee, ten additional monthly payments of $60 would be charged. The Court held "a necessary fact has been omitted and the rule [prohibiting omission of facts necessary to make material not misleading] violated" (At 194).

RPC 7.1 provides that a communication is false or misleading if it omits a fact necessary to make the statement considered as a whole not materially misleading. Upon the basis of the authority cited, it appears that the omission, in the type of advertisement referred to, of the fact that a client will be obligated for costs and expenses of litigation, as required by RPC 1.8(e), would mean that a consumer of legal services would not receive necessary information. Therefore, it is the conclusion of the committee that such advertisements which fail to disclose the client's obligation to pay costs regardless of the outcome of the litigation are misleading and therefore not permitted under the Rules of Professional Conduct.

Informal Opinions are published pursuant to authorization granted by the Board of Governors but they have not been individually approved by the Board and do not reflect the official position of the Association. An informal Opinion is provided for the education of the Bar and reflects the opinion of the Rules of Professional Conduct Committee.

Dues Referendum: The Facts

I think the Board of Governors and our Bar staff have been unfairly criticized and feel that a response to you is proper and necessary.

I refer to a letter headed "Dues Freeze Referendum Results," which has been mailed to many of you by two members of the Bar complaining of the referendum process and asking you for financial support of their newly created "Bar Association Democracy Bulletin."

Your Board of Governors is accountable to you for any action taken and accepts criticism and comment about its decisions; however, in fairness they expect such critique to be based on facts and truth and not deliberately misleading statements that are sent to you by a very few members who have in the past demonstrated that they are unhappy and dissatisfied with the basic structure and operation of our Bar Association.

The charges made in that letter that the Board of Governors "manipulated the referendum process" is an absolute and calculated untruth and is an attack on the personal integrity of each Governor.

The charges made of any irregularity are without foundation.

Here are the facts:

First, they complain that the time element or time factor in the dues freeze referendum was not long enough to permit effective participation in voting by our members. The fact is that it was just one day less in time-frame than our last dues referendum in 1977, in which 64% of our members felt it important enough to cast valid ballots. The further proof of my claim is that we received valid ballots within the stated time-frame from our members in Tokyo, Taiwan, Winnipeg, Massachusetts, Florida, South Carolina and Texas. In view of that it is hard for me to believe that the Seattle attorneys (numbering about one-half of our total active membership), or any Washington state attorney did not have more than ample time to cast an effective vote if he or she chose to do so. Surely no more than a handful of our members were on a vacation that extended through the entire voting period.

Prior to the mailing of the ballots the two members who circulated the subject letter of complaint were told specifically the exact number of ballots that would have to be received to validate the 50% voting requirement of our bylaws. That bylaw has been in effect and, of course, honored for many years. Although the referendum failed to validate by 310 votes, I directed that all ballots be counted and reported regardless of when received. Even tallying the late ballots the required number still fell short of the bylaw requirement.

The subject letter claims that its two authors were denied the right to inspect the ballots, the voter list and the envelopes. The envelopes were not saved and never have been in any other past conducted referendum. However, the list of those to whom ballots were sent and the return ballots are intact and available for members to inspect and count. On December 19, 1987 one of the subject letter's authors was advised that he could be present when the Bar staff counted the ballots. He did not choose to accept that invitation. Furthermore, the Executive Director offered that member by correspondence dated January 29, 1988 a further opportunity to inspect the voter list and count the ballots. This offer was again ignored. Despite that, I have at this time directed that the voter list and the ballots be retained until July 1, 1988 for inspection and counting by any active member.

I think it is important to our Association that we walk out of the shadow of innuendo and into the sunshine of facts. Your Board will continue to deal in truth and pledge their continued personal integrity to you and will be accountable to you on that basis.

If you have any questions, I want you to feel free to call or contact me or any member of the Board of Governors.

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Around the Country

by **John J. Michalik**
WSBA Executive Director

The *Bar News* has a fairly regular feature known as "Around the State"—involving various reports on lawyer and professional activities in the state. Adopting that "theme" or approach, here are a few of the goings on in other parts of the country that may be of interest to you.

In *Arizona* an attempt to move jurisdiction of that state's $1.75 million Interest on a Lawyer Trust Account program from the Arizona Supreme Court to the state treasurer was narrowly defeated in the State Senate by a vote of 16 to 12. Under the proposal, funding for legal services under the IOLTA program would have been eliminated, and the funds would have been applied to judicial education and other "judicial purposes."

In the area of *attorneys' liability insurance*, bar associations in at least 25 states have now formed captive insurance companies or are in the process of forming such companies. Although, nationwide, insurance premium increases have "slowed" over those prevailing one or two years ago, the "soft market" has not prevented a number of states from pursuing the captive route. Oregon continues as the only state with a mandatory Professional Liability Fund (distinguishable from a captive insurance company). The most recent report on the Oregon situation is that the premium now stands at approximately $2,500 for $300,000 coverage, which involves about a 25% premium increase.

The legal profession continues to put its stamp of approval on *mandatory continuing legal education*. Ohio recently became the 32nd state to adopt a mandatory rule. Minnesota was, in 1975, the first state to go the mandatory route; Washington, in 1976, was the fourth. Current developments in mandatory CLE include the adoption, in some states, of requirements that from three to five hours of the generally required 15 hours per year be in the specific area of legal ethics and professional responsibility. In another development, New Jersey, which does not yet have mandatory CLE, is considering a mandatory program which would also have a testing component.

In *California* a bill in the state Legislature would set California State Bar dues at $470 per year—an *increase* of $195 over present levels. The bulk of the increase would be to provide increased funding for the bar's discipline system in an effort to reduce staggering backlogs. In 1986 alone, the California bar investigated nearly 8,000 complaints.

Unrelated to just about anything else in this column, I noted the report of a recent survey of managing partners in 145 law firms located east of the Mississippi. The survey itself dealt with a series of economic variables, but one of the more interesting parts dealt with "non-responses." This was a telephone survey and the report was that "about eight %" of the time no one answered the phone, even though all calls were made during working hours. In a reported "five % of the time" the phone line was broken when the switchboard operator tried to transfer the call. In "nearly 20% of the cases the switchboard operator did not know the name of the firm's managing partner.

More than half of the states have adopted versions of the ABA's model *Rules of Professional Conduct*. As of mid-February, 26 states had adopted such new "ethics codes" based on the ABA model. Washington's version was adopted in 1985.

According to the ABA, one complaint alleging lawyer misconduct is filed for every 11 dues-paying lawyers in the United States, but only one in every 13 complaints results in a finding of probable cause to believe the lawyer engaged in misconduct. According to the findings of the 1987 Survey on Lawyer Discipline Systems, Arizona, Delaware and Alaska reported the highest complaint rates on the state level, with one complaint for every 6.1, 5.8 and 4.7 lawyers, respectively. The District of Columbia reported the lowest, with one for every 42.2 lawyers. Washington's figures were at about one for every 7.8 lawyers. A total of 54,605 complaints were filed with the disciplinary agencies that had jurisdiction over the 615,492 lawyers who had paid dues/licensing fees.

John J. Michalik

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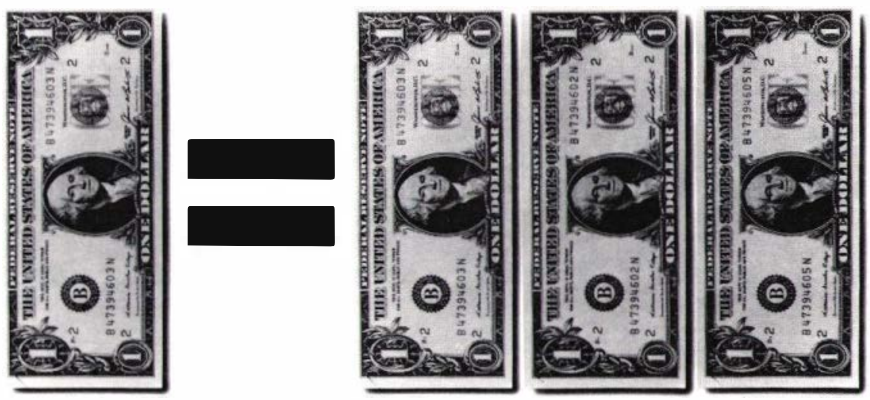

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Referenda: Please Comment

(The Referendum Review Special Committee, chaired by Mike Carlson, reported to the Board of Governors' March meeting. The committee has used this question and answer format as its report to the members. The matter will be on the Board's agenda in June for further or final consideration.)

Q - What was the committee's assignment?

A - To conduct a thorough re-examination of all existing referendum procedures, permissible topics for referendum and related matters.

Q - What procedure did the committee follow?

A - Notice and a request for membership comments was published in the January 1988 *Bar News*. Six responses were received.

Q - What research did the committee do?

A - Bylaws of other states were sought, and 32 were received. Of these, 20 had no referendum procedure and 12 did. Of those 12, four had referenda which could only be initiated by the governing body. Of the remaining eight initiated by membership petition, only four provided the result would be binding. Of the four where member initiated referenda were binding, all restricted permissible subjects either to actions taken at the annual meeting or matters of broad policy interest to the association. As you know, in Washington, member-initiated referenda can change the bylaws and reverse or modify decisions of the Board of Governors. Of the 32 states reviewed, it is clear that none has a referendum procedure as liberal as ours.

Q - What other comparisons did you make?

A - The provisions were so varied and different that no direct comparison was possible. Reference to some provisions may be of interest: *Petition Signatures*: 10% of the membership. (Our present requirement amounts to about 1.7%) but that 10% must be obtained in each of three-fourths of the states' judicial districts; can only be initiated by two-thirds of the members attending the annual meeting. *Permissible Subjects*: Only actions taken at the annual meeting; only questions of broad association policy. *Validation Requirement*: Of the four states whose referenda are binding on the governing body, *all* have a 50% validation requirement. *Time For Conducting Referendum*: Most states have no time provisions. *Position Statements In Ballot*: Most states have no provision.

Q - What did the committee draw from this research?

A - This is best expressed by language in a petition by the Wisconsin State Bar Association to its Supreme Court requesting a moratorium on referenda until the process could be reviewed:

> . . . The Bar is simply too big and too sophisticated to be governed like a town meeting. A representative form of government is workable; the Utopian town meeting form is not workable. Consequently, the day-to-day governance of the organization should be the obligation and responsibility of the Board of Governors. Direct member action should in general be limited to matters of broad importance to the body as a whole. A Referendum should not be the normal course of business.

We were also mindful that Referendum is not membership's sole remedy. Members elect their Governors. Governors are not appointed. Their terms are limited to three years. Therefore every three years members have the opportunity to see to the election of a Governor they feel accurately represents their views.

Q - What was the Board's response to the committee report?

A - We submitted 11 discussion-type proposals. The Board elected to make no change as to six. As to the remaining five, there was tentative consensus for approval, subject to notification and receipt of members' responses. Those items are:

1. Require statements not in excess of 750 words for and against, then each to have not more than a 250-word response. The statements and responses to be printed on a ballot. (Presently this is optional with the Board of Governors, and there is no provision for responsive statements. The new procedure should enable members to cast more informed ballots.)
2. Petitions and statements for and against to be signed under CR 11-type certificate that to the best of certificant's knowledge, information and belief, formed after reasonable inquiry, it is well grounded in fact. (Presently, there is no requirement for any assurance as to inaccurate or misleading material.)
3. A referendum which fails to validate shall not be brought again within one (1) year. (This is to eliminate repeated referendum expenditures—about $15,000 per referendum—on the same issues, which is very possible under our minimal 250 signature [1.7% of membership] requirement.)
4. A subsequent referendum could supersede a prior referendum but would have greater signature, validation and majority requirements. (This is to provide a safety valve if the binding effect of a previous referendum were going to cause a harmful result because of some changed or previously unknown circumstance.)
5. The result of a referendum which passes shall be binding for one (1) year. (Presently it's binding for two (2) years. In our rapidly changing and developing world, too many things can happen in two years to bind our Association to something that long.)

Q - What's the next step?

A - After consideration of member responses to this article, the matter will be back on the Board's agenda in June for further or final consideration.

Q - Where should members send their responses and suggestions?

A - To: M. J. Carlson, 1001 Wall Street Building, 2930 Wetmore Avenue, Everett, WA 98201.

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Notice re Proposed Board of Governors Policy Statement

The Board of Governors has directed the publication of a proposed board policy statement concerning member access to State Bar Association books and records.

This general subject was addressed by a resolution at the 1987 State Bar Annual Business Meeting. That resolution called for the Board to examine and review existing policies in this general area. Acting on the resolution, the Board appointed a special task force, chaired by Seattle lawyer F. Lee Campbell, to study the question and make recommendations to the Board. The task force has now reported to the Board of Governors and, prior to taking final action, the Board has directed that the proposed policy statement be published for member comment.

The policy statement reprinted below reflects the work of the task force and reduces to written form the long-standing general policy of the Association in this area. In addition, it sets forth specific procedural steps and describes necessary exceptions. Any comments on this proposed policy should be directed to: **The Board of Governors, Washington State Bar Association, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599.**

Statement of Policy and Procedure Regarding Access to Association Books and Records

Preamble

Fairness, openness, and democratic participation are central values of the Washington State Bar Association ("Association"). To serve these associational values, active members of the Association should have access to the Association's books and records except as otherwise stated herein. The Executive Director and members of the Association staff should endeavor to provide full and prompt assistance to any active member requesting access to Association books and records. While full disclosure is favored, it is not unbridled, and certain Association books or records cannot be produced for reasons of confidentiality as mandated by court rule, statute, or Board of Governors policy. In order to reasonably and responsibly address requests from active members for access to Association books and records, the Board hereby adopts the following procedure:

1. Information regarding the business of the Association shall be made available and furnished to any active member requesting such information, subject to the provisions hereinafter set forth relating to confidentiality and inspection and/or copying of books or records. Requests for such information shall be submitted to the Association office within regular and customary business hours and shall be responded to promptly. Any such request must be reasonably related to the interests of the Association.

2. The books and records of the Association, other than those containing information described in paragraphs seven and eight hereof, shall be made available to any active member of the Association for inspection and/or copying, provided,

   (a) Notice of the request is given to the Executive Director of the Association at least ten days in advance of the proposed inspection and/or copying; and,

   (b) Such inspection and/or copying would not unreasonably disrupt the operations of the Association office.

Any such requests shall be submitted in writing to the Executive Director and shall state the reason for which the inspection and/or copying is sought.

3. Within ten days of receipt of the request, the requesting party and the Executive Director shall agree upon a date for inspection and/or copying, unless the Executive Director of the Association notifies the requestor in writing that the request shall not be granted because

   (a) It is unreasonably disruptive to the operations of the Association; or,

   (b) It calls for the disclosure of confidential or privileged information which cannot be disclosed; or,

   (c) It is not reasonably related to interests of the Association.

The requesting party may appeal any determination related to (a) or (b) above, in writing, to the Board of Governors within thirty days following the date upon which the member is notified of the determination. Should the Executive Director determine that the request should not be granted because of (c) above, that determination will be promptly submitted to the Board of Governors by the Executive Director for a final decision on the request at the next regularly scheduled meeting and the requestor will be so notified.

4. The expense of copying any books or records of the Association

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shall be paid by the active member making the request.

5. Any inspection or copying of Association books or records must be accomplished within the Association offices. None of the books or records shall be removed from the office except when copying is to be done by memhers of the Association staff.

6. Any inspection and/or copying of Association books or records must be accomplished during regular and customary business hours unless the Executive Director determines that it would be more convenient or appropriate to do so at other times.

7. The following information contained in books and records of the Association, because it relates to privileged or confidential material, will not be disclosed under any circumstances:

(a) Information which must not be disclosed due to confidentiality requirements mandated either by statute or court rule. Such information includes, but is not limited to, information relating to disciplinary matters, communication with the Lawyers' Assistance Program, or any spot audits of trust accounts.

(b) Information which the Board has determined should not be disclosed as a matter of policy, as the privacy interests involved in such information and the need to keep such information confidential outweigh any generalized request for disclosure. Such information includes, but is not limited to, the identity of Bar examiners, Bar examination test scores, and fee arbitration matters.

8. In the event information referred to in paragraph seven above is commingled with other nonconfidential information within the books or records of the Association, inspection and copying of such books or records shall not be allowed unless, within the discretion of the Executive Director, the requested nonconfidential information can be reasonably summarized, separated or extracted.

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The Third-Party Referral
by An Urban, Small-firm Lawyer

When a client exhibits addictive or dysfunctional behaviors (distress), I recommend counseling or treatment. But when an office mate of mine exhibited similar distress over a period of time, I wore blinders. Nonetheless, I felt uneasy around his wife at social occasions. Did she know or didn't she? What was my obligation in all of this?

My colleague's practice was affected by his distress; that much was obvious. Few clients crossed the threshold. He stayed in his office until late, the door closed. He isolated himself and rarely came out during the day. One by one, my office mates and I came face to face with behaviors that seemed to indicate impairment. (To protect the lawyer's identity, I won't specify his distress, except to say that he involved some of his clients in it.) One by one, we talked to him. One by one, we told him that we thought he had a problem, and we asked him to get into counseling within a specific time period. And to all of us, one by one, he made excuses so that he wouldn't have to meet with us all at once—the lawyer denied that anything was wrong. Some days, he smiled and charmed us. His distress continued. We asked him to move out. The last few months were difficult.

The lawyer moved out. I felt sorry for his new office mate, but also felt that it wasn't my job to interfere. One day I was struck by something I heard from a psychologist friend: Inappropriate behavior that is not treated keeps repeating itself. The words broke through my denial. I realized that the lawyer's being out of *my* sight and out of *my* mind didn't protect the public or help the lawyer one iota.

I still hesitated. Would calling LAP look like sour grapes? Was I being too much of a caretaker? I got tied up in knots: Do I or don't I? What if I do, and nothing happens? What if I do, and something happens? Worse, what if I don't, and something happens?

Free-floating anxiety set in for a few days. I was unable to sort through how I felt, although it was easy to think in hifalutin' terms of protecting the public, his marriage, and him. Then I realized that LAP had been established to deal with just what I had seen in the lawyer. My agony went away. I would call LAP and tell what I knew firsthand. After that, it was LAP's ball game: They had the expertise, the methods, and the staff.

I dialed 448-0605. I didn't know where to start, but the LAP clinician was, if anything, understated. No gestapo or third degree here. No leading questions at all. She just let me speak. Several times, she said that LAP acts on third-party referrals only where there is independent corroboration of the alleged distress. LAP would only contact my former office mate if someone else called LAP to report his inappropriate behavior. I gave the LAP phone number to an office mate and provided some information on what to expect and what not to expect.

Time has passed. I don't know if my office mate ever contacted LAP. I did what I felt comfortable doing: Made a referral to LAP of a lawyer whom I had reason to believe was impaired and whose practice was affected as a result.

If Not You, Who?
by WSBA Lawyers' Assistance Program Staff

What will the procedure be if the office mate contacts the Lawyers' Assistance Program?

LAP staff will contact two peer counselors trained by the program to work with lawyers in distress. The peer counselors will contact the distressed lawyer in person, tell about what they have learned concerning how the alleged impairment has specifically interfered with the practice of law, refresh the lawyer as to the confidentiality provisions of LAP, talk about their own recovery process, if relevant, and ask the lawyer to set up an appointment with LAP professional staff for voluntary screening and referral to the appropriate professional if it is indicated. The peer counselors may continue making contact with the lawyer to offer support and to encourage recovery if the lawyer does not ask them to drop the matter. If the lawyer does ask the peer counselors to discontinue contact, LAP will contact the lawyer again only after receiving another independent complaint. LAP will not contact the discipline authority of the WSBA unless the lawyer explicitly waives the right of confidentiality.

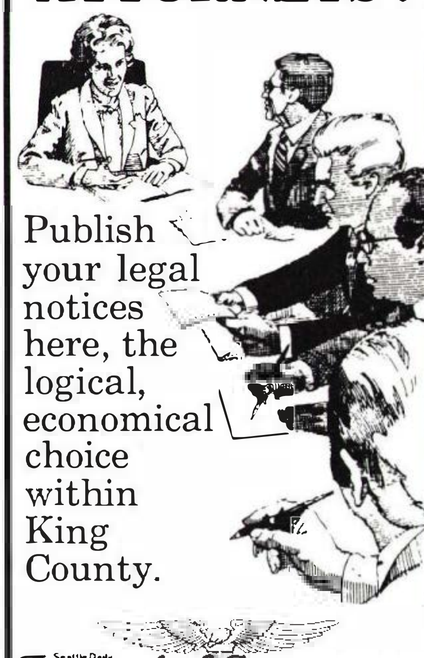
What might have happened if this call had come to LAP earlier?

The lawyer might still be practicing with office mates who could offer support during treatment and lessen the chance of relapse. The lawyer could have avoided the financial and emotional stress of making a transition to a new work environment. This lawyer might now be on his or her way to recovery.

LAP still is waiting for the second call. It will come. Generally, impairment is progressive, *i.e.*, matters only get worse until the person begins an active recovery process. Meanwhile, the first third-party referrer feels better, and the LAP process has begun.

Most of LAP's clients are self-referrals, but if you are concerned about a peer, LAP is available for confidential, effective assistance. Pages 26-27 of the December 1987 *Bar News* list the 20 most frequently asked questions about LAP. Previous articles feature specific impairments.

ATTORNEYS !



Seattle Daily Journal of Commerce
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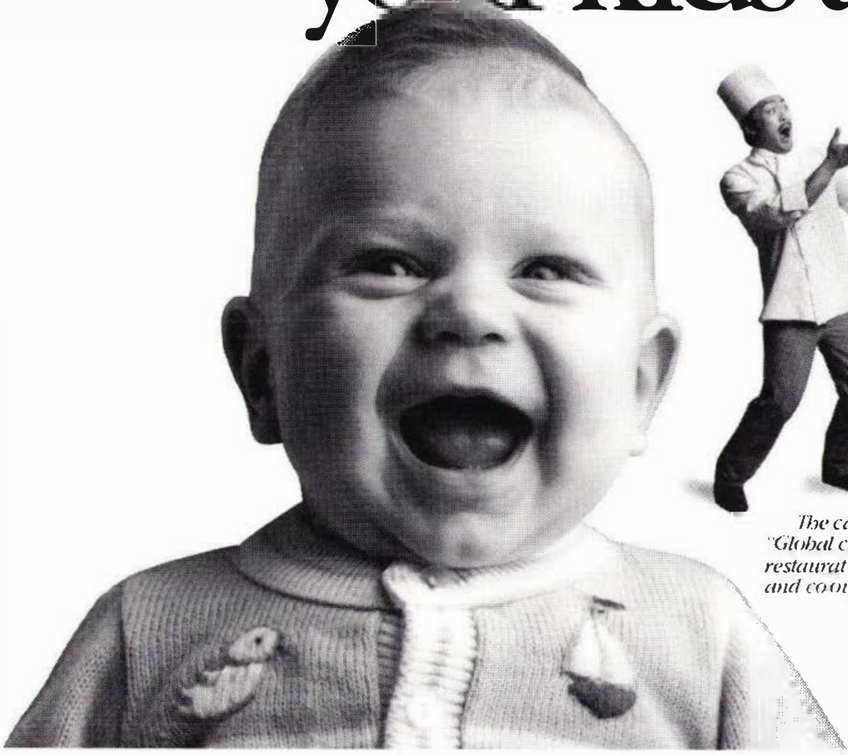
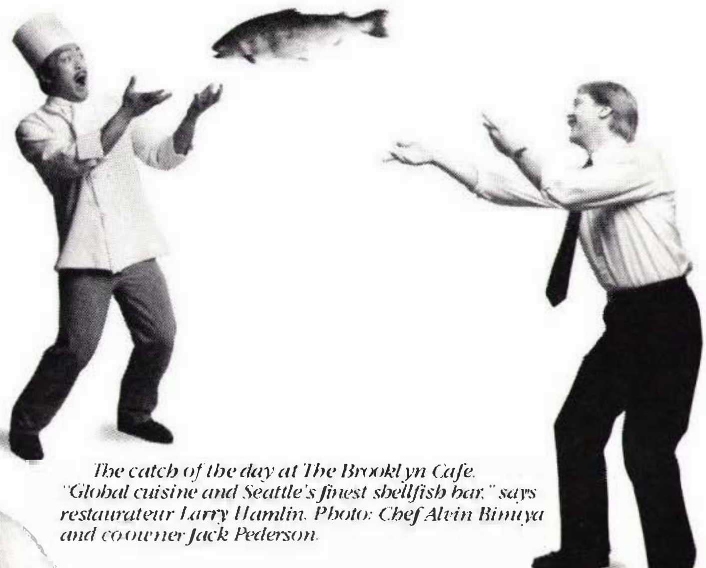
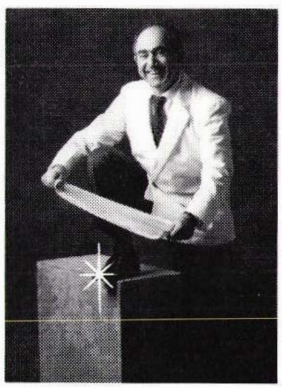
Finally an office building so friendly you can bring your kids to work.



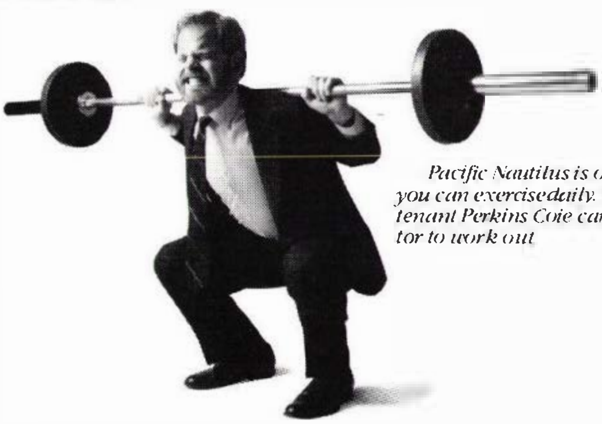
Day care achieves new heights. Cooper Moore will go to day care where Mom works. at 1201 Third Avenue. "A first in Seattle's highrise history," says Tema Nesoff, YWCA associate director.



The catch of the day at The Brooklyn Cafe. "Global cuisine and Seattle's finest shellfish bar," says restaurateur Larry Hamlin. Photo: Chef Alvin Binuya and co-owner Jack Pederson.



Bob's Shoeshine. An illuminating experience from Boris "Bob" Volinsky, the affable Ukranian.



Pacific Nautilus is one lease option you can exercise daily. David Bruce of tenant Perkins Coie can take the elevator to work out.

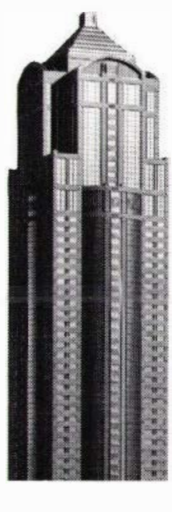
Property Manager Neal Warner (center), Paige Carns and Jim Jackson are three members of the building management team at Wright Runstad & Company.

Shown above are just five of our many services at 1201 Third Avenue.

The building is now open. First tenants are in. And if you're lucky enough to be one in the future, picture all of this – from hot dogs to hot trips, from a quick latte to quick postal service – just an elevator away.

For the full leasing story and the cook's tour, call friendly Kevin Kaywood, (206) 447-9000, Wright Runstad & Company.

At 65% leased, he's all smiles.



1201

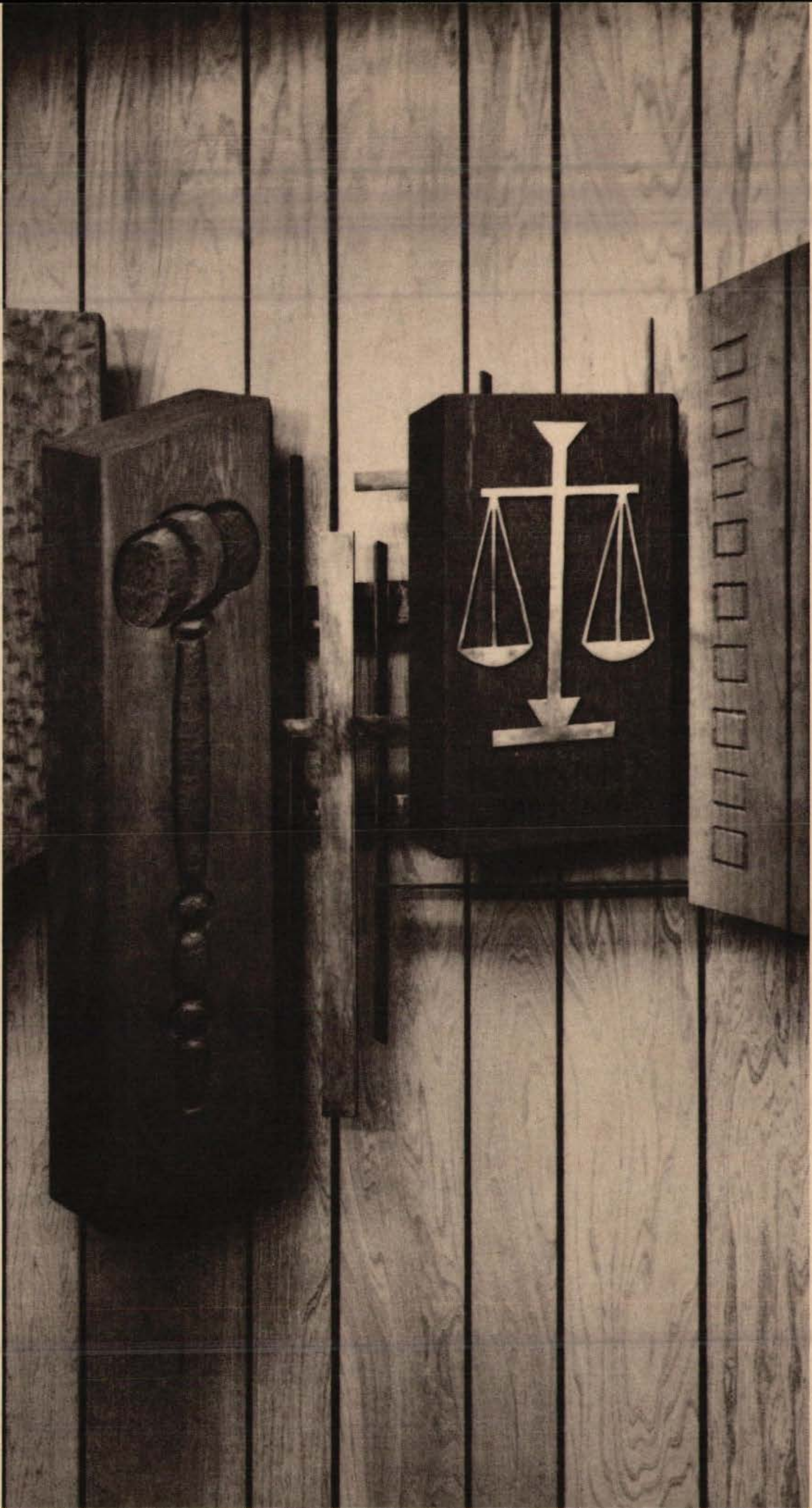
Third Avenue

The Seattle building they talk about in Seattle.

Washington State Bar Association

1988
Annual Report

Pull Out Section



Washington State Bar Association

1988 Annual Report

President's Report

It is my duty and pleasure to report to you on the activities of your State Bar Association.

There are two really important operative concepts in the preceding sentence and paragraph. The first is "activities." This is a very active, forward-moving organization. Its activities are numerous, diverse and sweeping, and a major frustration I feel is being unable, in these few pages, to touch upon more than a few of them. That is, however, an almost pleasant frustration because it signifies a vigorous Association which continues to occupy its place as a performing leader among bar associations and in the legal profession.

The second operative concept is that this is "your" State Bar Association. I could define that concept in a dozen different ways, but the one which stands out is that the activities of this Association exist and are carried out only through your efforts. I cannot begin to count the hundreds of thousands of volunteer hours which go into making the activities of this Association reality: from CLE speakers and writers, to Section leaders, to Committee members, to lawyers participating in Fee Arbitration matters, to Peer Counselors in the Lawyers' Assistance Program, to the members of our Speakers Bureau, to supervisors in the Legal Intern and Law Clerk programs, to contributors to the *Bar News,* to volunteer lawyers and law firms in our MENTOR law-related education program, to Law Day program organizers, to ... well, the list is endless, but I think the point is clear.

With those concepts in mind, I am pleased to present this Report for your information and consideration.

Jack R. Dean

Purposes of the Bar

On June 10, 1987 a very conspicuous and important event took place: the Supreme Court of Washington adopted Supreme Court General Rule 12 (GR 12) setting forth the Purposes of the Washington State Bar Association.

This is an extremely important Court Rule. GR 12 establishes, if you will, the parameters of the State Bar Association's activities. The Rule speaks in general terms about the Association's Purposes, and it also lists specific activities authorized by the Court. Finally, on sort of the "flip side" of the coin, the Rule lists a few very specific activities which are not authorized by the Court and which are, therefore, beyond the scope of the Association's activities. In sum, GR 12 provides the first real statement of the Association's mission and charge, as set forth by its supervisory "parent."

The activities authorized in GR 12 are not innovative on their face — in most instances the Supreme Court was confirming approval of activities that the Association had been pursuing for some time, often on the Court's behalf. What is truly significant is that GR 12 puts those Purposes of the State Bar in clear and concise form, providing direction to the Bar and the legal community. If you haven't looked at GR 12 you should; it provides one of the main guideposts for the work of the State Bar Association.

Young Lawyers Division

As we move into the spring of 1988 we find ourselves coming up on the second anniversary of the creation of the State Bar Association's Young Lawyers Division.

Formal activity by "young lawyers" within the State Bar Association structure began in the early 1970s when the Young Lawyers Section was created as one of the original dozen State Bar Sections. As the years passed it became clear a broader, more active force was needed to represent and involve the growing number of young lawyers in the State Bar family. The creation of a Young Lawyers Division was first recommended by the Long Range Planning Task Force which reported to the Board of Governors in 1985. That recommendation led to the establishment of a separate Task Force chaired, quite significantly, by now State Bar President-Elect Betty Bracelin. The "Bracelin Task Force" renewed the call for a Young Lawyers Division and the Board of Governors accepted the challenge. The entity which was created differs considerably from the former Young Lawyers Section. Most importantly, *all* State Bar members under the age of 36 or in their first five years of practice are automatically members of the Division. There are no direct Division dues — activities are funded by an annual appropriation by the Board of Governors upon submission of a detailed budget proposal from the Division Trustees. Most importantly, the Division has begun to become a strong force in providing opportunities for participation in State Bar activities for the over one-half of our members who are Division members. This has been achieved through a variety of initial activities, including the Statewide YLD Network and *DeNovo,* the Division's monthly newspaper.

The Young Lawyers Division has grown and will continue to grow in future years. This is as it should be, and the Association's commitment to the Division is nothing more nor less than recognition of the growing place of young lawyers in Association affairs and future Association leadership. As the Division grows, credit is due where it is owing — to Betty Bracelin for being the champion of the concept; to our Executive Director John Michalik for facilitating the change; to Tom Fitzpatrick of Seattle, the Division's founding President and guiding force; to current Division President John Riley of Spokane, who has helped bring the Division "of age"; and to the countless number of young lawyers who have participated, in many ways, in the Division's activities.

The Young Lawyers Division will continue to grow; it will continue to involve more and more lawyers in Association activities. It will, without a doubt, become a growing and positive resource within the State Bar.

Lawyers' Assistance Program

One of the really significant accomplishments in the last year, and something both of my predecessors, Pat Comfort and Bill Gates, deserve a great deal of credit for, was the establishment and start-up of our Lawyers' Assistance Program (LAP).

LAP is nothing more nor less than a direct member service: A program designed to provide professional, confidential assistance to those of our members needing help in times of personal trouble and crisis. It is a program which combines a professional staff, headed by lawyer-psychologist Dr. Andy Benjamin, with a working referral group of Peer Counselors — lawyers who have volunteered to go through special training so that they can be of immediate and continuing assistance to other lawyers who need their help. Our program officially opened its doors in August of 1987, and in its first six months of operation provided direct service to nearly 100 lawyers who have come forward for help and assistance. That is remarkable — and it is startling to realize that without LAP many of those individuals would have continued throughout life without knowing where to turn for help with alcohol problems, drug addiction, marital strife, depression and a host of other problems. When the program was conceived we had, frankly, no idea of the wide range of problems that would be manifested by those seeking help. It is a true measure of the program's value that adjustments have been and continue to be made, and no one is turned away because "we don't deal with that sort of thing."

The strengths of the Lawyers' Assistance Program are many, but two really stand out in my mind. One is the selfless commitment by our dozens of Peer Counselors, many of them lawyers who have experienced the same sorts of problems as those they help through the program. The involvement of these Peer Counselors, truly lawyers helping lawyers, makes the program "go" and has brought it the success it has already achieved. A second strength is the very fact that this Program is one which we operate and provide for ourselves. The cost is not inconsequential, but it is really small in comparison to the result and the resource provided: this is nothing less than the profession being a resource for its own in the toughest of troubles. I have heard some say that this is not a proper Bar activity; that these sorts of problems of fellow lawyers are none of our concern and should be left to existing social service agencies. I disagree and the critics, of which there are few, remind me a lot of Scrooge and his famous line of "Are there no orphanages? Are there no poor houses?" There may be, but the real point here is the opportunity through this program to help restart and clear up the lives of our brothers and sisters during dark and trying personal times.

There is no doubt in my mind that LAP is one of the best things *we* have ever done.

Association Finances

This Report includes the financial statements for Fiscal 1987 (and, for comparison, those of Fiscal 1986) as prepared by our independent auditors. While those financial statements are clear and basically self-explanatory, a few comments are in order.

The bottom line of the financial statements is that they reveal what is denominated as an "excess of expenses over revenues"; in other words, the Association spent more than was taken in during the Fiscal Year. That excess was fairly substantial: over $500,000. On the other hand, the significance of that "excess" is even greater. Here's a quick picture.

What caused the excess? Well, a number of factors, most of which are fairly apparent from the financial statements themselves. One big factor, that we all experience, was the continuing effect of inflation on ongoing activities and operations. A second factor was the unusual circumstance of having *two* State Bar Conventions in *one* fiscal year (there was none in Fiscal 1986), placing a one-time strain on Association funds. A third factor is the obvious increased emphasis and expense in the discipline area where we spent, in toto, almost $200,000 more than in Fiscal 1986. That was a necessity in the discharge of one of our most important Court-mandated functions. Finally, at least in terms of major factors, Fiscal 1987 saw us start up three totally new but very necessary member service programs: the Young Lawyers Division, the Lawyers' Assistance Program and our expanded State Bar Directory, *Resources*. These new services could have been delayed, but their importance was and is such that the additional "strain" they created has been well worth the effort.

How was the "excess" handled? Very fortunately, the State Bar Association had, throughout the early 1980s, built up a fairly substantial Reserve; something which, by the way, did not exist before 1982. That Reserve was accumulated as a guard against future emergencies. It was sufficient to cover the fairly small deficit in Fiscal 1986 *and* to handle the bulk of the $500,000 deficit in 1987. In essence, we borrowed from the Reserve.

Was the deficit/"excess" anticipated? Unquestionably, "yes." The Fiscal 1986 audit, showing that year's minor loss, was a clear tipoff. Even before then, the Budget Committee of the Board of Governors was noting the inevitability of a shortfall and counseling for reexamination of revenue sources. A dues increase was considered in the summer of 1986 for Fiscal 1987, but a conscious decision was made to postpone that increase. Among the considerations which affected that decision was the then ongoing study of a potential mandatory professional liability insurance fund, an issue that was to come to a head in mid-1987 and which carried with it the prospect of a fairly substantial per-member assessment. The Board of Governors determined it did not want to impose a dues increase with the insurance question unresolved (you will recall that that insurance proposal was ultimately defeated). Another consideration was the very existence of the Reserve. It was anticipated that the Reserve would be sufficient to cover any deficit and should be used for that purpose as needed. A third consideration related to the Board's own view that a dues increase should be imposed only as a final step. Your Board of Governors is very conscious of financial matters and, in lieu of a dues increase, determined in 1986 to provide partial additional funding through increasing "user fees" such as those involved in the Lawyer Referral Service and elsewhere as a means of raising additional, non-dues revenues.

What has been the impact of the deficit/"excess"? Obviously, much of the Association's Reserve has been exhausted. In the summer of 1987, as you all know, the Board of Governors, after considerable advance notice, reluctantly concluded that a dues increase was finally inevitable in order to maintain present service levels and to cover projected future growth in necessary areas such as discipline, the Bar examination, etc.; to maintain essential member services; to restore the Reserve as a renewed guard for the future; and to provide for the financial base and future security of the Association. Added to all of that was and is the inevitable effect of inflation, which has accumulated since the last dues increase was approved in 1981. The dues increase which is now in effect has the potential of covering all of the above and more, and on a basis which will, barring truly unforeseen needs, last into the next decade.

What is the Association's current financial posture? I am happy to say the answer to that question can be summed up in a word or two — words like "solid" and "bright." Our financial base is being rebuilt; our programs are moving on; and our Reserves are being restored. While no organization or business likes "down" years, such things are not unusual in a nonprofit context. The test of an organization's strength is its ability to recover quickly and without massive corrections. Our recovery is well underway, and the "price" is small — a dues increase of $30 per member ($20 for newly admitted members). This is not to say that any increase is not significant, but in the context of inflation and *all* that the State Bar provides for its members, in service to the public and in discharge of its duties to the State Supreme Court, it is an increase that is well worthwhile.

Pro Bono

I told you in my first President's column last fall that I was making the creation of a statewide effective Pro Bono Program the most important project in my year as President. We are over halfway now, and excellent progress is being made. I also told you that I was asked to testify last summer before the Senate Judiciary Committee, which was studying a law that would impose mandatory pro bono on all of us. I asked them for time to let us solve this problem, and I am satisfied that because of the many pro bono programs in place, any move to mandate by law is back on the shelf.

Our duty to provide legal services for those otherwise unable to pay is found in the Oath of Attorney, in Sec. 6.1 of the Rules of Professional Conduct and in Supreme Court General Rule 12. This Rule simply says that it is our duty "to promote the availability of legal services to all in need."

We have a top notch Pro Bono Task Force in place at the state level. However, we recognize that the solution lies with each local bar association, and the Task Force is available for support and guidance. Obviously, each county faces different problems and different solutions.

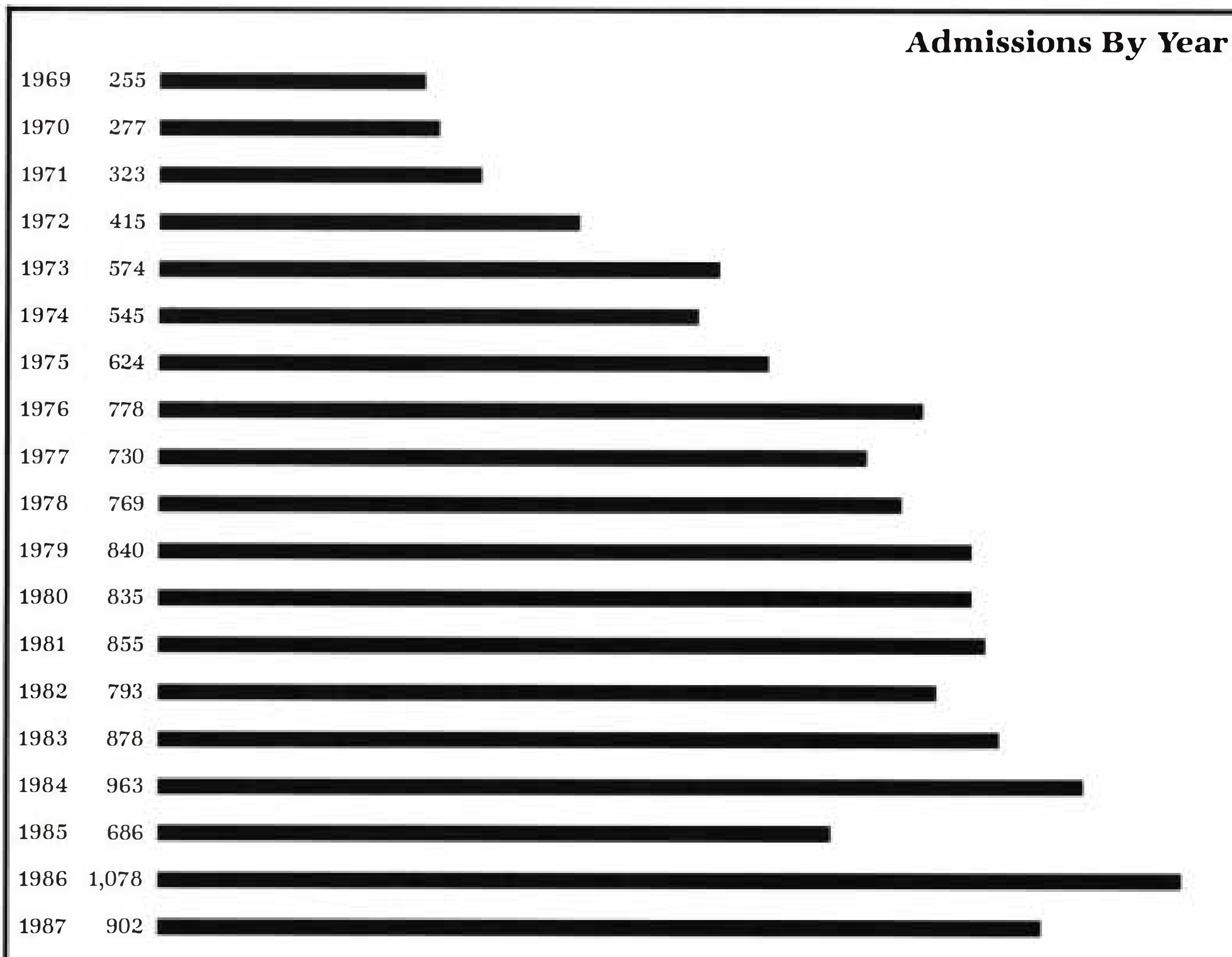
Your IOLTA funds, administered by the Legal Foundation of Washington, have been most helpful. Without the Foundation's encouragement and financial assistance, most local programs would not be in the great shape they are in. The Legal Foundation has funded every viable program submitted by local bars and promises to continue to do so.

I close by submitting a very simple overall solution to you. It says that if each of us does his or her duty in helping to provide these needed legal services we, as the Washington State Bar Association, will have fulfilled the duty and responsibility that we have accepted.

Call to the Bar—Admissions

I suspect that the *active* membership of the Washington State Bar Association will pass 15,000 by the end of 1988. This represents a continuation of the growth patterns of recent years, and the trend seems "flat" for the future. For example, we had over 500 aspiring Washington attorneys sit for the Winter 1988 State Bar Examination. That is a record for a Winter Exam and, with law school enrollments and applications holding steady, those are numbers we will be seeing for some time. I'd add that if 500 people for an examination seems a lot, think for a moment about our Summer Examination—which in recent years has seen close to 900 applicants each year and involves an examination we administer in the Tacoma Dome!

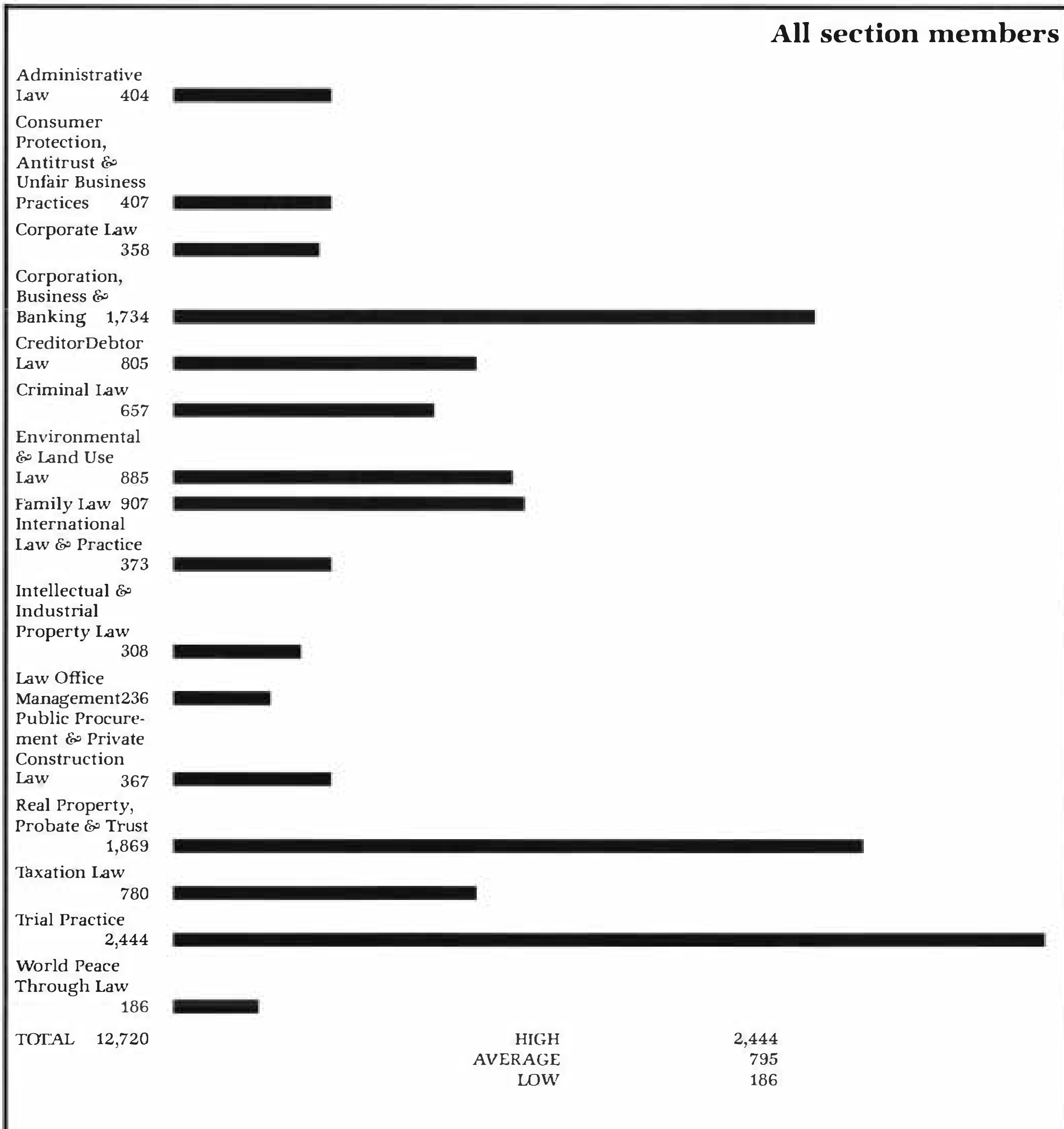
With a present membership in excess of 14,000 lawyers, approximately 60% of our current members have been admitted to practice for ten years or less. Also, while the figures from some bygone years are not totally verifiable, it appears that over 70% of the lawyers who have *ever* practiced law in Washington state are practicing *today*.



State Bar Sections

In reports of this nature there is an ongoing tendency to focus on what's new and what's "hot." We sometimes forget about those continuing activities which provide constant contributions to the work of the Association and the betterment of the legal profession. One of those continuing activities that I think is worth special mention involves the work of our State Bar Association.

The first WSBA Sections were organized in the early 1970s. Membership was at first small, and for nearly a decade some of the Sections had difficulty establishing themselves as "going concerns." In the last seven or eight years that



has all changed pretty dramatically. The growing pains have ended, and the Sections have put themselves in the forefront of Association activity. There is a lot of hard work involved in Section affairs, and a tip of the hat is due to those many practitioners who have, through service on Section Executive Committees and on special projects, built the base of Section success.

The contributions of the Sections are really staggering. Most have regular newsletters that keep the members of the particular Section abreast of current legal developments in the Section's area of interest. Virtually all of the Sections work hand-in-hand with our Office of Legislative Affairs in commenting on legislative proposals and in generating improved legislative efforts. Section Mid-Year meetings have become a staple item on the State Bar CLE schedule each spring and provide really concentrated, top-quality programming for all members of the State Bar Association. The Sections contribute heavily and importantly to our Convention programming and, in fact, make the Convention educational effort what it is — the centerpiece of the Convention. Many Sections have truly special and important projects. For example, the Taxation Section has had, for eight or nine years, an outstanding, once-a-month "Attorney-CPA Tax Clinic" program which is always fully subscribed and which is held in both Seattle and Spokane. Other Sections have generated handbooks; compiled Directories; established liaisons with both federal and state agencies; and have, without doubt, contributed across the board to the activities of the profession and individual lawyers across the state.

Success, as they say, breeds success: the original 12 Sections have grown over the years to the present 16 Sections, and two others are now in the planning and developmental stage. Most importantly, to me, the Sections have increased immeasurably the opportunities for lawyers to become involved in meaningful professional activities at the state level.

In Closing — Looking Ahead

I would like to close with two or three quick thoughts and observations.

One of those relates to the coming year. 1989 will see us celebrate a very significant milestone in the history of the organized legal profession in Washington state: the Annual Business Meeting in September 1989 will be the 100th such gathering of Washington lawyers. Coincidentally, this occurs during the year of the Washington State Centennial. It promises to be an exciting year for a lot of reasons including the new, and some old, thoughts and ideas that are under study now and will come before the Board of Governors, and you, in 1989 — ideas like new directions in errors and omissions insurance; the role of the legal profession in the AIDS crisis; new efforts in the provision of pro bono legal services; another look at professionalism and where we go next; study of the role of the organized bar in implementing further opportunities for minorities in the legal profession; reexamination of the best methods of providing CLE to our members; further strengthening of our discipline system; and countless other potential projects all having their genesis in the ideas and innovativeness of our members.

It will be an exciting year — your year, my year and the year of every member of the Washington State Bar Association. However, *my* year as your President will end this coming September. This year (and I've still got almost half of it to go!) is, in my mind, a mix of emotions — but the one which stands out is pride. It is the proudest honor and achievement of my professional life and career to serve as President of this Bar Association. That feeling of pride, all other considerations aside, comes from the opportunity of representing all of you and knowing that as an Association we are in the forefront of professional and public service.

Jack R. Dean
President

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To the Board of Governors of the
Washington State Bar Association

We have examined the balance sheets of the Washington State Bar Association as of September 30, 1987 and 1986 and the related statements of revenue and expenses, statement of expenses by activity, changes in fund balances and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Washington State Bar Association at September 30, 1987 and 1986, and the results of its operations and activity expenses, changes in its fund balances, and changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Von Harten & Company

Washington State Bar Association
Balance Sheet
September 30, 1987 and 1986

	1987	1986
Assets		
Cash		
Checking accounts	$ 8,982	$ 67,947
Savings accounts	1,152,300	1,472,813
Accounts receivable	68,875	62,019
Office supplies	35,154	40,900
Deferred costs and prepaid expenses	212,673	227,216
Furniture, equipment and leasehold improvements (Notes 1b, 2 and 3)	369,357	263,345
Total assets	$1,847,341	$2,134,240
Liabilities and Fund Balances		
Liabilities and deferred revenues		
Accounts payable	$ 733,162	$ 487,045
Deferred revenue (Note 1c)	745,133	737,246
Equipment contracts payable (Note 3)	125,834	63,362
Deferred compensation (Note 6)	287,008	307,991
Total liabilities	1,891,137	1,595,644
Fund balances (deficit) (Note 1a)	(43,796)	538,596
Total liabilities and fund balances (deficit)	$1,847,341	$2,134,240

The accompanying notes are an integral part of these financial statements.

Washington State Bar Association
Statement of Revenues and Expenses
Years Ended September 30, 1987 and 1986

	1987	1986
Revenues:		
Membership dues	$2,238,963	$2,101,712
Continuing legal education	1,050,794	1,247,889
Bar examination fees	357,625	312,750
Bar news	300,140	303,788
Convention (Note 7)	286,012	—
Interest earned	98,420	133,270
Sections	188,516	196,387
Lawyer referral service	64,105	68,000
Bar journal directory	52,737	—
Young Lawyers division	14,019	—
Other	114,912	105,168
Total revenues	4,766,243	4,468,964
Expenses: (also see expenses by activity)		
Salaries	1,424,511	1,298,094
Payroll taxes and benefits	349,337	342,538
Rent and utilities	310,322	189,461
Postage, printing and office expense	385,577	325,706
Public relations and support activities	383,872	339,594
Miscellaneous	113,296	92,570
Depreciation and amortization	44,923	58,380
Direct activity expenses:		
Continuing legal education	648,774	979,356
Bar examination and admissions	286,703	254,321
Convention (Note 7)	420,102	—
Discipline	89,836	64,439
Bar news	332,876	313,469
Committees	71,156	110,132
Legislative	36,246	28,283
Sections	183,274	183,593
Client's security claims	50,945	7,807
Lawyer referral service	38,579	26,591
Young Lawyers division	66,310	—
Bar journal directory	98,651	—
Lawyers' assistance program	13,345	—
Total expenses	5,348,635	4,614,334
Excess of expenses over revenues:	(582,392)	(145,370)
Detailed as follows:		
General Fund	(601,209)	(202,583)
Section Fund	21,012	29,436
Client's Security Fund	(2,195)	27,777
	$ (582,392)	$ (145,370)

The accompanying notes are an integral part of these financial statements.

Washington State Bar Association
Statement of Changes in Financial Position
Years Ended September 30, 1987 and 1986

	1987	1986
Factors increasing cash		
Increase in:		
Deferred revenue	7,887	49,741
Accounts payable	246,117	73,189
Equipment contracts	62,472	63,362
Decrease in:		
Office supplies	5,746	—
Accounts receivable	—	3,733
Deferred costs and prepaid expenses	14,543	—
Total cash provided	336,765	190,025
Factors decreasing cash		
Operations:		
Excess of expenses over revenues	582,392	145,370
Less non-cash items		
Depreciation and amortization	44,923	58,380
	537,469	86,990
Increase in:		
Deferred costs and prepaid expenses	—	116,807
Accounts receivable	6,856	—
Furniture, equipment and leasehold improvements	150,935	128,832
Office supplies	—	18,831
Decrease in:		
Deferred compensation	20,983	19,173
Total cash used	716,243	370,633
Decrease in cash	(379,478)	(180,608)
Cash balance, beginning of year	1,540,760	1,721,368
Cash balance, end of year	$1,161,282	$1,540,760

The accompanying notes are an integral part of these financial statements.

Washington State
Bar Association
Statement of
Expenses by Activity
Years Ended
September 30,
1987 and 1986

	1987	1986
Revenue-Producing Activities:		
Continuing legal education	$1,119,498	$1,377,180
Bar examinations and admissions	521,636	515,200
Bar news	444,965	434,832
Convention (Note 7)	420,102	—
Sections	250,020	242,565
Lawyer referral services	101,098	102,650
Bar journal directory	98,651	—
Other Activities:		
Discipline	954,776	768,006
Public affairs	304,258	237,401
Miscellaneous activities	165,517	237,142
Committees	142,037	170,262
Conferences and meetings	114,393	146,042
Legislative	168,728	139,665
Lawyer trust account audits	127,271	114,868
Membership mailings and special projects	85,689	83,958
Legal intern and Law Clerk	41,223	36,756
Client's security claims	50,945	7,807
Lawyers' assistance program	103,925	—
Young Lawyers division	133,903	—
Total expenses from operations	5,348,635	4,614,334

Note: Each of the above accounts includes a pro-rata allocation of administrative and overhead expenses as shown on the statement of revenue and expenses.

The accompanying notes are an integral part of these financial statements.

Washington State
Bar Association
Notes to
Financial Statements
September 30, 1987

1. Summary of Significant Accounting Policies

a. Assets and liabilities, and revenues and expenses are recognized on the accrual basis of accounting.

b. Furniture, equipment and leasehold improvements are stated at cost, less accumulated depreciation, computed on the straight-line method. Furniture and equipment are depreciated over their estimated useful lives of five to ten years.

c. Dues are recorded by the Bar Association as revenue in the applicable membership period. Seminar registration fees are recorded as revenue in the period in which the seminar is held. Accordingly, unearned dues and seminar fees are included as deferred revenue in the financial statements.

2. Furniture, Equipment and Leasehold Improvements

The following presents the amounts of furniture, equipment and leasehold improvements at September 30, 1987 and 1986:

	1987	1986
Furniture and equipment	$566,973	$401,751
Leasehold improvements	3,215	111,255
	570,188	513,006
Less accumulated depreciation	200,831	249,661
	$369,357	$263,345

Depreciation expense was $44,923 and $58,380 for the years ended September 30, 1987 and 1986, respectively.

3. Equipment Contracts Payable

The equipment contracts payable are summarized as follows:

	1987	1986
Contract payable to IBM Corporation in monthly installments of $1,568.59 including interest at 12%. The contract is secured by the underlying equipment.	$ 51,504	$ 63,362
Contract payable to AT&T Corporation in monthly installments of $1,876.64 including interest at 11½%. The contract is secured by the underlying equipment.	74,330	—
	$125,834	$ 63,362

Maturities of long-term debt in each of the next five years are as follows:

Year Ended September 30	
1988	28,122
1989	31,599
1990	35,509
1991	26,904
1992	3,700
	$125,834

4. Lease Commitments

Effective December 1, 1986 the Bar Association entered into a ten-year non-cancellable lease, with two five-year options, for the use of new office space. The minimum annual rental commitments due under the office space and equipment leases are summarized below:

Year Ended September 30	
1988	300,541
1989	304,801
1990	309,913
1991	338,005
1992	323,904
Thereafter	1,322,000
	$2,899,164

The monthly payments under the former office lease obligation were assumed by the new landlord until the termination of the lease at June 30, 1987.

During the year ended September 30, 1987, the Bar Association subleased a portion of its office space which resulted in a reduction of rental expense of $2,086.

5. Client's Security Fund

It is the estimate of management that with current restrictions, conditions and limitations pertaining to various claims presently filed, the Bar Association's total exposure to the Client's Security Fund does not exceed $200,000.

6. Deferred Compensation

Effective January 16, 1978, the Bar Association entered into an Employment and Deferred Compensation Agreement with its then Executive Director, G. Edward Friar. This agreement was, by mutual consent, amended on September 10, 1979 and again on September 5, 1980. The agreement requires monthly payments as a general obligation of the Bar Association upon termination of the employment of the said Executive Director. The vesting requirements of this agreement and its amendments were met on December 31, 1980 and December 31, 1981, respectively. Mr. Friar retired as Executive Director on December 31, 1981. The estimated balance due under the agreement and its amendments has been computed on a present value basis using actuarially determined life expectancy tables and interest rates and is reflected as a liability of the Bar Association in the financial statements. The total amount to be paid to the former Executive Director will depend upon his actual life span.

7. Convention

The Bar Association generally holds its annual convention in September, the last month of its fiscal year. However, the 1986 convention was not held until November 1986. Therefore, these financial statements do not reflect any convention revenue or expense for the year ended September 30, 1986 and reflect the results of two conventions for the year ended September 30, 1987.

Notes

WASHINGTON STATE BAR ASSOCIATION

Contents

Direct Dial Telephone Numbers

Admissions
(206) 448-0563
Continuing Legal
Education
(206) 448-0433
Legal Department
(206) 448-0307
Lawyers' Assistance
Program
(206) 448-0605
General Information
(206) 448-0441

Washington State Bar Association

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Seattle, Washington
98121-2599

May 1988

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WASHINGTON STATE BAR NEWSLINE

The Board's Work

by **Lindsay Thompson**

RED LION MOTOR INN, YAKIMA:
APRIL 22-23, 1988

PRESENT: President Dean and all of the Governors. ALSO PRESENT: John Fattorini, (WSBA Legislative Liaison); Terry Foster (WSBA CLE Director); Kay Frank (SKCBA/YLD); Ed Holm (IOLTA); Judge Bruce Hanson (Superior Ct. Judges Assn.); Laura Inveen (WA Women Lawyers); John Michalik (WSBA Exec. Dir.); Judge Ray Munson (Ct. of Appeals Judges Assn.); Mary Prevost (Govt. Lawyers); Geoffrey Revelle (SKCBA Trustees); John Riley (WSBA Young Lawyers Div.); Friday; Linday Thompson (*Bar News* Editor); Greg Tinker (WSTLA President); and Robert Welden (WSBA General Counsel).

BUDGET ADJUSTMENTS

Executive Director John Michalik said significant changes have been made in format of the 1988 bar convention which should save money. He recommended, and the Board okayed, a reduction of the convention budget from $202,000 to $155,000.

Governor Frank Johnson of Spokane gave a preliminary report for the Audit Committee. Johnson said the committee had concluded at least $250,000 should be put in the bar's reserve account.

The committee also recommended a fee for bar exam applicants, since more write for the forms than actually apply. Also in the hopper is a $50 increase in the bar exam fee to reduce, if not eliminate, the bar exam deficit.

The committee also sought authority to put the WSBA audit contract up for bids this year. "We find nothing wrong with our present auditing firm," Johnson said. "We simply think it a responsible practice to put the process through a close review periodically and see if we are getting the best value for our money." The Board approved the idea.

"ALL YOU CAN EAT" CLE SESSIONS AND
PROPOSED RULE CHANGES QUERIED

The Bar's mandatory CLE programs got a comprehensive review by the Governors on Friday and Saturday. Friday the Board took up a proposal by Seattle lawyer Douglas Shaw Palmer to run $5 per hour CLE sessions in Seattle as an alternative to the annual smorgasbord of courses offered during the bar convention each year. Since the bar convention has been outside Washington more often than not in recent years, Palmer reasoned, why not take the CLE courses out of it and have them at a place and for a price more members can afford?

CLE director Terry Foster found the basic assumption of the Palmer plan faulty. Having major CLE offerings at the convention

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Similarly, at the appellate level, procedural traps for the unwary practitioner abound. For example: "there must be specific assignments of error before we will go behind the trial court's findings." *Dave v. Nastos*, 39 Wn. App. 590, 595, 694 P.2d 686 (1985).

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JAMES E. LOBSENZ, former Clerk to Associate Justice Mathew O. Tobriner, California Supreme Court, and Chief Justice Vincent L. McKusick, Supreme Judicial Court of Maine; author of numerous law review articles; successful appeals include *In re Addleman*, *State v. Ryan* (amicus), *State v. Pam*, *State v. Sargent*, *Lang v. Lang*. Federal appeals include *Watkins v. United States*.

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allows savings which would not be had outside the convention, such as room and speaker costs. He felt it a false assumption that members come to the bar convention solely for CLE, contended there are plenty of CLEs in Seattle as is: 475 in 1987, of which 60 were WSBA sponsored and 70 by SKCBA.

Governor Paul Stritmatter of Hoquiam said, "We could do $5 per hour CLEs. We'd just have to be willing to subsidize them." Governor Julie Weston of Seattle commented she had observed bar section mid-year meetings cutting into bar convention attendance. How would a mass CLE in Seattle affect this, as well as the policy that the bar's CLE program pay for itself?

Governor Steve Reisler of Seattle felt "we need to consider Palmer's point that if we have mandatory CLE we should make it available at the lowest possible cost." He thought the matter should be looked into to see what impacts such a plan would have. Governor Jay White of Seattle thought the proposal "an intriguing one, but I lack the information to evaluate it. I think if you had all the CLE you can eat for $100-" "it should be 'stomach' rather than 'eat'," interjected Governor Steve DeForest of Seattle- "you might have turn-away crowds. Why not look into it?"

Others thought having such an event in Seattle would work a hardship on non-King County bar members, and effect a subsidy of the better off by the less well off in the bar. In the end, Governor Jim Turner of Seattle moved that no action be taken on the proposal, which motion was then approved. Reisler abstained, and White opposed.

Saturday, Foster and State CLE Board chair Terry Schmalz brought several rules changes to the Board for approval.

The first change was to clarify the policy of granting up to 10 CLE hours for significant legal publication. The CLE Board found a standard of evaluation elusive. After some discussion, the Board recommended some minor changes in evaluation of publications for CLE credit.

The second proposal was to allow lawyers to get CLE credit for teaching, as well as attending, law school courses. The CLE Board, meeting the day before, had adopted this change, having found a problem denying teachers—sometimes lawyers acting as adjuncts—credit but giving it to lawyers on the other side of the podium. After desultory debate, Governor Weston moved reinstatement of the old policy, which the Board approved unanimously.

The third proposal would have amended CLE Rule 104 to require that all CLEs, to get credit, be shown to directly increase one's competence **in law**, rather than **as a lawyer**, in the current text. The theory was that lawyers are seeking credit for things like medical meetings which have no legal content. Board members and audience made short work of the idea, noting that in many areas of practice, familiarity with the substantive aspects of an activity—like medical practice for PI lawyers—is essential. The Board voted unanimously against the proposal.

WRAP-UP IN YAKIMA In other action, the Board:

- considered clarification of the policies of the Judicial Selection Committee;
- selected Tacoma lawyer Teri Rideout to succeed Patrick Comfort on the State Law Revision Commission;
- unanimously endorsed a proposal to make Seattle artist Linda Hawkin—Israel's painting, "Women in Law" a U.S. commemorative postage stamp;
- supported the WSBA Group and Prepaid Legal Committee's efforts to reinstate Internal Revenue Code Section 120;
- heard a legislative wrap-up on the 1988 session from John Fattorini;
- and sparred some more over how to allocate bar committee appointments between King County and the rest of the state.

NEXT MEETING May 20-21, in Spokane.

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The Supplement contains 4,000 sections filed by 91 rule-making state agencies in 1987 that have not previously been available in codified form.

The price of the 1987 WAC Supplement is $52, and sales tax of 7.8% applies to all sales other than to state agencies. State law also requires payment in advance. To order the Supplement, send your name and mailing address, along with your check or money order in the amount of $56.06 (tax included, no shipping charged in U.S.) to:

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Computer Law Institute and June Mid-Years

by **John M. Redenbaugh**
Associate Director of CLE

The Fifth Annual Computer Law Institute will be presented in Seattle on June 3 at the Stouffer Madison Hotel. This year's theme is *Computer and Technology: The State of the Art 1988*.

Jeff Raikes, Director of Application Software Marketing for Microsoft Corporation will present remarks dealing with "PC Software, Graphics, Artificial Intelligence, Networks, and Databases: The State of the Art and Future Art" following the luncheon provided to all registrants. The remainder of the seminar sessions will address three major categories: "Securing Intellectual Property Rights—The State of the Art;" "Contract and License Arrangements for Software and Technology—The State of the Art;" and "The Cutting Edge—New Proprietary Rights Issues for Software and Technology."

The distinguished faculty for this year's Computer Law Institute includes: **William F. Baron** (Cary & Baron, Seattle), who will address "Copyright Protection For Software and Technology;" Professor **Donald S. Chisum** (University of Washington School of Law, Seattle), who will talk on "Patent Protection For Software and Technology" and "International Patent Protection Schemes for New Technologies: Worldwide Harmonization;" **William H. Neukom** (Vice President, Law & Corporate Affairs, Microsoft Corporation, Redmond), who will address "Employee Non-Disclosure, Trade Secret, and Confidentiality Arrangements;" **Alec R. Szibbo** (Russell & DuMoulin, Vancouver, B.C.) and **John R. Uren** (Russell & DuMoulin, Vancouver, B.C.), who will make a combined presentation on "Summary of State of the Art in Canada;" **Martin F. Smith** (Shidler McBroom Gates & Lucas, Seattle), who will deal with "Intellectual Property Rights Abroad: Experiences in Brazil and Other Protectionist Countries;" **G. Scott Greenburg** (Shidler McBroom Gates & Lucas, Seattle), who will comment upon "License Grants and Technology Transfers;" **Robert A. Kreiss** (Cary & Baron, Seattle), who will deal with "Warranty Provisions;" **Roger M. Tolbert** (Bogle & Gates, Bellevue), who will comment upon "Ownership Rights and Confidentiality Provisions;" **Robert S. Bramson** (Schnader, Harrison, Segal & Lewis, Philadelphia, PA), who will deal with "Security Interests and Bankruptcy Issues in Software Agreements;" **Jere M. Webb** (Stoel Rives Boley Jones & Grey, Portland), who will deal with "Antitrust Considerations in Technology Agreements;" **Jeffrey Miller**, Ph.D., J.D. (Vice President and General Counsel, NeoRx Corporation, Seattle), who will comment upon "Biotechnology: Patents and Protection;" **William O. Ferron, Jr.** (Seed & Berry, Seattle), who will address "'Look and Feel' Copyright Cases;" and **R. Lewis Gable** (Newman, Williams, Anderson & Olson, Arlington, VA), who will address "Artificial Intelligence: Protection Mechanisms on the New Frontier."

This course has been approved by the Washington State Board of CLE for 8.25 credits. For further information and to request a brochure, please contact Robin Anderson at the WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599, or telephone (206) 448-0433.

The Real Property, Probate & Trust Section Mid-Year will be held June 10-12 at the Inn at Semi-Ah-Moo (one of Washington's newest resorts) located near Blaine. The Family Law Section Mid-Year will be held in Vancouver, WA June 10-12 at the Inn at the Quay; the Family Law Section Mid-Year has been scheduled to coincide with many of the nearby Portland Rose Festival activities. To request a brochure for either of these programs, please call (206) 448-0433.

APPROVED COURSES
Washington State Bar Association

Partnership Taxation
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MAY 20 Seattle (Sea-Tac Red Lion)

1988 Environmental and Land Use Law Section Mid-Year
11.00 credits
JUN 2 - 4 Orcas Island (Rosario Resort)

Fifth Annual Computer Law Institute
8.25 credits
JUN 3 Seattle (Stouffer Madison Hotel)

1988 Family Law Section Mid-Year
11.00 credits
JUN 10 - 12 Vancouver, WA (Inn at the Quay)

1988 Real Property, Probate and Trust Section Mid-Year
12.00 credits
JUN 10 - 12 Blaine (Inn at Semi-Ah-Moo)

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For further information on the following CLE courses, call or write the listed contacts directly.

PSI

Professional Education Systems, Inc. has announced a one-day seminar, *Washington Evidence Update*, for May 25 in Seattle. Speakers, including Hon. Faith Enyeart, Karl Tegland and Professor Robert Aronson, will discuss hearsay and its exceptions, judicial notice, expert testimony, opinion evidence, real and demonstrative evidence, character, habit and remedial measures, and related topics. The seminar's cost is $115, and $95 per person for three or more pre-registering together. For more information, call 1 (800) 826-7155, ext. 31.

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SKCBA

The Seattle-King County Bar Association and American Immigration Lawyers' Association's Washington Chapter have set a seminar, *Immigration Law for the General Practitioner*, for June 3 at Seattle's Stouffer Madison Hotel. The seminar will treat such issues as non-immigrant visas; labor certifications; asylum and other deportation relief; relative visa petitions; and employer verification and sanctions. Its cost is $95 for SKCBA members; $115 for non-members. For additional information contact Kathy Weber, (206) 783-7361, or Robert Tulloch, (206) 682-0565.

Alaska Tax Conference

The Second Annual Alaska Tax Conference will be held June 13-14 at the Egan Convention Center, Anchorage, Alaska. The conference is sponsored by Alaska Pacific University and the Alaska Bar Association. Co-sponsors include the Alaska Society of CPAs, the Anchorage ERISA Forum, the Anchorage Estate Planning Council, and the International Association for Financial Planning, Anchorage Chapter.

The two-day program features John Pennell on Partnership Allocations and Basis Adjustments, Dudley Lang on S Corp Planning and Conversion from C Corp, Jonathan Blattmachr on Estate Planning with Closely-held Business, and John Lowry on Interest Deduction and Foreclosure Taxation. Registration for the conference is $245.

A follow-up session will be held September 16-17. Scheduled speakers include Alex Brucker on Taxation of Distributions From Qualified Plans and Sherwin Simmons on Life Insurance and Estate Planning Issues.

Special discount fares and accommodations have been arranged for out-of-state participants. Tours of Mt. McKinley Park and other Alaskan sights as well as trout, halibut or salmon fishing trips can be scheduled.

For more information or registration, please contact Kathryn Barth, Program Coordinator, Alaska Pacific University, 4101 University Drive, Anchorage, AK, (907) 564-8292.

Dragons & Law-Related Education

by **Margaret E. Fisher**

UPSICEL is born in the Chinese Year of the Dragon—believed to be the most revered of the 12 astrological signs in the Chinese system. This rather musical acronym stands for the University of Puget Sound's Institute for Citizen Education in the Law.

Margaret Fisher, its director and founder, is hopeful the new entity will breathe fire into the law school's commitment to public education about the law and legal system in Washington.

UPSICEL's wish list is a long one: regular summer teacher-training institutes in LRE, development of international and national networks to the LRE movement, local curriculum development, direct delivery of LRE in various adult and juvenile settings, a leadership role in LRE, development of law student graduates as resources for the UPS Street Law clinic, and more.

Target Washington

The Institute's formation coincides with the selection of Washington as a "target state" for an ambitious delinquency prevention program. As the recent recipient of funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the U.S. Department of Justice, the Institute will coordinate statewide activities to reduce delinquency behavior.

Washington's participation in the OJJDP project began in 1986 as part of Today's Constitution and You program of Metrocenter YMCA. The upcoming stage, under UPSICEL, involves comprehensive efforts to institutionalize delinquency prevention LRE programs in school and justice settings.

As a target state, Washington is expected to meet four OJJDP requirements:

1) identify five individuals to be trained in July 1988 by the five national LRE groups (American Bar Association, National Institute for Citizen Education in the Law [NICEL], Law in a Free Society, Constitutional Rights Foundation, and Phi Alpha Delta Law Fraternity);

2) conduct ten hours of LRE training for 250 educators;

3) train teachers capable of training others in LRE;

4) conduct a private-public partnership conference.

OJJDP has committed $2.4 million to support states through various stages of LRE development. Activities will be shaped in part by findings from a four-year national study of LRE impact on delinquency prevention.

Beyond Washington

Local, regional and international networks are expected to be an important part of UPSICEL's activities.

The Institute will draw on UPS's seven-year history of teaching LRE in Pierce County to expand offerings. Called "Street Law," the popular course, modeled on a program Fisher conducted at Georgetown University Law Center, is now offered at 26 law schools.

Law students from UPS who participate in the Street Law clinic teach high schoolers about the law. Seniors from Tacoma and Franklin Pierce school districts are involved this year.

If pending grant writing efforts are successful, a concentrated effort to infuse LRE in all Tacoma School District civics classes will be mounted. Additionally, a state supplement to the National text, *Street Law: A Course in Practical Law* (West Publishing Co.) will be written and, in 1989, a teacher training institute will be conducted at UPS.

The Institute also has been named the chief writer of a law school textbook/manual for use in establishing and improving law school-based LRE programs. Tentatively titled "Teaching Law Students to Teach Law," the book will cull experiences of law school professors from around the country.

On the regional front, UPSICEL will now serve as West Coast representative for the National Institute for Citizen Education in the Law. The arrangement formalizes a relationship with the Washington, D.C.-based nonprofit organization. As one of its first undertakings, the Institute will offer technical assistance to the Idaho State Bar in its beginning efforts to establish LRE.

***Margaret Fisher** has worked full time in LRE since 1977, first as a Project Director for NICEL, and now as Director of UPSICEL.*

The Institute will have an international flavor, too. Exchanges between high school students in Washington and in Southern Africa are planned. Students from both continents are researching local family law concerning teenage pregnancy and the resulting rights and responsibilities for those involved.

Through a telephone exchange, each team of high school students will compare how the laws apply to that situation. Not only will students learn how the laws can differ, but they also will be expected to explain distinctions to others from a totally different culture.

An International Internship in LRE is also envisioned. After serving nine months in Southern Africa establishing LRE programs, Fisher proposed to the King of Lesotho and the Dean of the University of Netal, South Africa, that an internship be established jointly at the law schools of UPS and Georgetown. With the UPS Law dean's enthusiastic endorsement, the proposal marks the first step toward establishing a full-time LRE institute at the law school.

The dragon breathes.

LRE Update is a regular column featuring news and notes of law-related education (LRE) activities. The author welcomes your comments.

CHELAN COUNTY

A University of Utah and DePaul Law School graduate, **Robert T. Dollinger**, has joined the Wenatchee firm of Ogden, Ogden, Murphy and Wallace. Dollinger worked in Chicago for Continental Insurance Company in a large law firm before coming West.

COWLITZ COUNTY REPORT
by TERRY LEE

The elections have begun to concern the members of the bar as the distinguished elected near the completion of their term. At the conclusion of a recent bar meeting there was much discussion on this topic, but at the close of the meeting there was no support, no designation and no nomination of candidates. The Castle Rock bar president, secretary and janitor **Chris Roubicek** appeared at the aforementioned meeting. **Sam Wardle**, alleged fugitive from points southwest was a welcome addition to the hot power (or is it air?) meeting. The Law for the Non-Lawyer classes have ended and grateful appreciation was expressed to **Gary Bashor, Leroy Borders, Dave Hallin, Scott Bougher, Dennis Maher**, judge **Alan Hallowell, C. C. Bridgewater**, associate dean **Dave Boerner, Steve Warning**, judge **Don McCullough, Paul Roesch Jr., Chris Roubicek, Mike Long, Scott Kilpatrick, Wayne Torneby** and **Cliff Kuhn** for their well done presentations. The program was an eight-weeker moderated by **Terry Lee**. It's expected to begin in a few short weeks as a series on the local television station. **Chuck D'Angelico** is the current chairman of the pro bono committee, and with the ground work done by **Ann Mottett** and **Sidney Splawn** and support of fellow member **Wes Johnson** it is hoped that soon there will be a formalized program in place. Yes, it's true many lawyers are interested in assisting others knowing they won't be paid. **Chris Sternagel** is carrying the banner on the upcoming Law Day activities. While a lot hasn't been heard from him yet, it is expected to be a loud production. Congratulations to **Scott Kilpatrick** for his continued efforts on behalf of the Young Lawyers Division and his vice presidency with the local Lions. **John Barlow** has again been honored outside of the county lines. His most recent kudos were given by the Clark County Bar for his Yellow Pages advertisement. **James Carty** is now of counsel to the Walstead firm. This ends the report from the land of Mt. St. Helens and fine fishing.

As a Busy Practitioner...


Tegland's
Litigation Today
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...You have no time for leisurely research. Nevertheless, you want to keep up on the latest interpretations of the Evidence Rules, the Civil Rules, and other rules governing your litigation practice.

As the author of *Tegland on Evidence* (West), I already do the necessary research and analysis for you. My computer is overflowing with commentary on new rules and cases that has not yet been published.

I am now able to rush these new developments to you in the form of my own newsletter, titled *Litigation Today*. Each issue contains:

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KITSAP COUNTY

Paula Crane, a partner of Smith, O'Hare & Crane in Silverdale, has been appointed to a two-year term on the Candidate Endorsement Committee of the Washington Women Lawyers' Association.

LINCOLN COUNTY

Phillip Borst became town attorney for Coulee City in February. According to the Coulee City News, Borst ranked second or third in the state in municipal law experience, having been an attorney for Wilbur for 21 years, as well as for Hartline and Grand Coulee. In the early 1970s, he served simultaneously as prosecuting attorney for Lincoln and Adams counties.

OKANOGAN COUNTY REPORT
by **R. JOHN SLOAN, JR.**

Since the last report a great deal of activity has occurred in the Okanogan County Bar Association. **John G. Burchard, Jr.**, a/k/a Jack Burchard has been elected Okanogan County Prosecutor. He replaces **Douglas Boole**, who did not seek re-election. The final race was between **Michael Dempsey** and Jack Burchard. **Christopher Culp** has been elected district court judge over **Henry A. Rawson**.

There have been a number of changes of association and location for attorneys within the bar. **Peg R. Callaway** and **Michael D. Howe** joined forces and recently moved into a beautiful new office building located between Omak and Okanogan. The law firm of Hancock, Rawson & Sloan, Inc., P.S. has dissolved and resulted in three firms. **Henry A. Rawson** has opened his own office in Okanogan. **R. John Sloan, Jr.** has opened his own office in Omak, and **Kelly Hancock** remains in his office in Omak. The Okanogan law firm of Mansfield, Reinbold & Gardner has changed locations. They have moved out of the Baines Title Building across the street into the structure formerly occupied by Production Credit Association. The office location still remains in beautiful downtown Okanogan.

There have been personnel changes in the Prosecutor's Office. **Michael Dempsey** has taken on a job with the Prosecutor's Office in Spokane County and been replaced by **Barnett Kalikow**. **Michael Dodds** has moved on to Clark County and has been replaced by **Steve Hallstrom**. **Stan Waltz** has also moved on to the Spokane County area and was replaced by **Alex Barkis**. Word has just reached this author that Barkis is now going to move to the Seattle area, and there is no word at this time as to his replacement.

Finally, new officers have been elected for the Okanogan County Bar Association. **Owen M. "Bud" Gardner** replaces **R. John Sloan, Jr.**, as bar president, and **Steve Aycock** of the Colville Confederated Tribes replaces Gardner as secretary-treasurer.

PIERCE COUNTY REPORT
by **GEORGE S. KELLEY**

Prosecuting Attorney **John Ladenberg** is asking the County Council for

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a pay raise to the level of a superior court judge. Apparently, he is not ready to ask for the really big bucks the county pays appointed criminal defense attorneys.

Civic activist **Ron Thompson** has been elected president of the Downtown Tacoma Association. A major association objective is the creation of a special downtown taxing district to hire much-needed security personnel to make our streets and parking garages safe from winos, panhandlers and other pests. What is interesting

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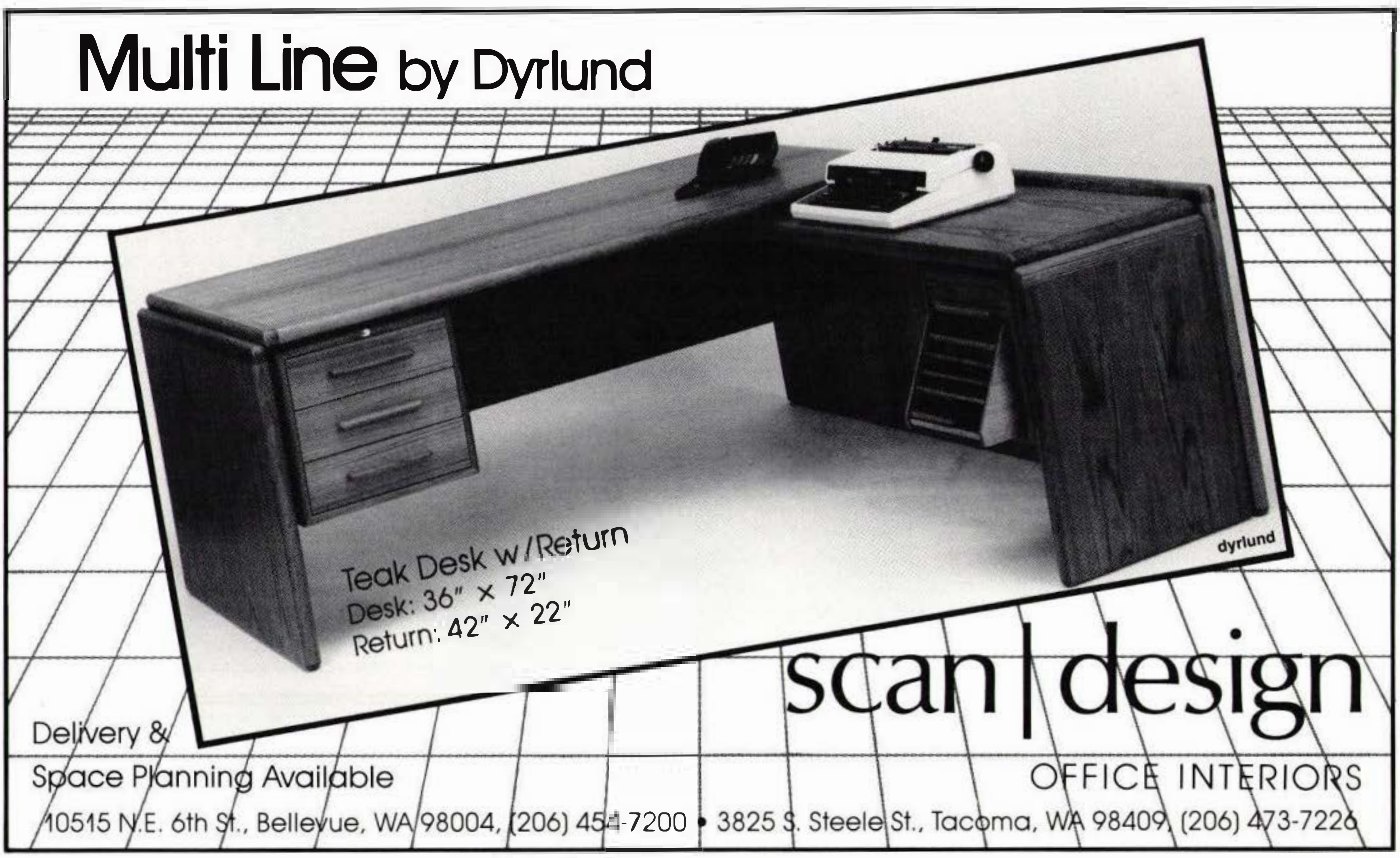

about Ron's election is that his office is not downtown, but in the suburbs near the courthouse and outside the proposed taxing district. Our Founding Fathers might refer to this as representation without taxation.

Dave Murdach has moved his office to 417 South "G" Street, which is in the same suburb as Ron Thompson's. Welcome to downtown Tacoma, Dave.

On Friday, May 6, from 4 to 6 p.m., the new wing of the courthouse will be dedicated in ceremonies open to both the bar and public. This will be part of Pierce County's Law Day activities. There will be the usual speeches by those wishing to accept credit for the project while escaping blame for the inconvenience caused by construction. Later there will be guided tours of the new facilities and a reception. The dedication is being sponsored and hosted by the Tacoma-Pierce County Bar Association, the judges, Pierce County, the Law League, Legal Secretaries Association, Young Lawyers and, last but not least, the taxpayers of Pierce County.

SEATTLE-KING REPORT
by **JAMES L. VARNELL**

Office Moves. Perkins Coie announces that the following have become partners in the firm: **Priscilla W. Derick, Valerie L. Hughes, Gerald B. Treacy, Jr.** (Bellevue); **Andrew Bor, Rex C. Browning, Eugene C. Chellis, Jeffrey A. Hollingsworth, Douglas S. MacBain, Sherilyn Peterson, Jeffrey I. Tilden, Richard A. White** and **Nancy Williams** (Seattle). Davis Wright & Jones announces that the following have become partners: **Robert A. Baskerville, Jeff Belfiglio, Omer F. Brown, II, Kathryn E. Cashin, Larry E. Halvorson, Judith B. Nevins, Carrie J. Rehrl, Margaret L. Schaaf**; and that **Susan H. Bragdon, Anita T. Davidson, James F. Hammond, Erin M. Sheridan, John L. Steiner, Laura B. Wishik, LaVerne Woods,** and **Gina M. Zadra** are now associated with the firm.

Steven M. Hedberg and **Keith E. Cohon** are now associated with the Seattle office of Miller, Nash, Wiener, Hager & Carlsen. **Jeffrey W. Leppo, Erik R. Lied** and **Andrew K. Dolan** (Seattle) and **Thomas S. Hodge** and **James R. Johnston** (Bellevue) have been made partners in Bogle & Gates. New partners at Tousley, Brain are **Timothy Black** and **Henry Aronson**; **Stephen Fjelstad** is now associated there. **Stuart Ainsley** is now associated with Montgomery, Purdue, Blankenship & Austin. **Elizabeth Pike Martin** and **Alan MacPherson** are new partners in Gordon, Thomas, Honeywell, Malanca, Peterson, & Daheim.

A recent announcement from Hatch & Leslie indicates that over the past *twenty* months the following additions have occurred: **Susan E. Anderson, Alan K. Willert** and **John R. Rizzardi** have been made partners,

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ADMIRALTY NOTE: Lawyers should consider filing seamen's cases involving injuries occurring in Alaska in Alaska state courts even when they are able to file suit in Washington. Unlike Washington courts, Alaska state courts regularly award attorneys fees and pre-judgment interest even on future damages awards. Alaska discovery rules are also considered liberal.

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and **William Jeff Davis** and **Lynn C. Tuttle** are now associates. (Known for, *inter alia,* its extensive bankruptcy practice, Hatch & Leslie has apparently been operating under some form of §362 (d) stay in respect to announcements of partnership changes.) **Michael T. Callan** and **Marc H. Pryde** are now associated with Revelle, McCarthy, Ries & Hawkins. **David S. Marshall** has become a principal with the newly-named firm name of Prince, Kelly, Newsham & Marshall. **Gary A. Boe** is now associated with Hackett, Beecher, & Hart. **Trenholme James Griffin** has joined Karr Tuttle as special counsel. **Carol Sanders** has joined Preston Thorgrimson as counsel. **Patrick M. Dwyer** and **James R. Vance** have become associates of Garrison & Stratton; **Helga Kahr** has become of counsel.

McElmeel & Schultz (known for having some of the finest golfers in Seattle and highest rate of partners *per capita* participating in a Seattle charity "bachelors' auction") announces that **Kevin M. Carey** has joined the firm as an associate. **Andrea A. Darvas** is now a principal in Rogers and Darvas (formerly James S. Rogers & Associates). **J. Richard Crockett, Robert H.** ("The Big Guy") **Madden, Bonita L. Olson** and **Carol J. Molchior** have formed the partnership of Madden & Crockett with offices in the IBM Building. **Steven T. Russell** is an associate there. **George A. Thornton** has become a member of the newly-named firm of Groshong, Lehet & Thornton. **Terry Lee Mulligan** is associated there; **Terry Barnett, Jan Brucker** and **Michael Menke** are of counsel.

Graham & Dunn announces that **Mark C. Lewington, Irvin W. Sandman,** and **Carmen L. Smith** have become shareholders. Diamond & Sylvester has changed its name to Sylvester, Ruud, Petrie & Cruzen. Wickwire, Goldmark & Schorr, and Syrdal, Danelo, Klein, Myre & Woods have merged their practices with Heller, Ehrman, White & McAuliffe effective April 1. **Patrick Dunn** and **Richard Thaler** have joined Heller Ehrman's Seattle office.

Of Note. The second annual Judicial Appreciation Dinner sponsored by the Seattle-King County Bar Association together with the East and South King County Bar associations was held at Union Station with judges from the federal, state, and municipal courts as honored guests. **Dennis W. Archer**, associate justice of the Michigan Supreme Court, spoke regarding "Equal Opportunity—Bench and Bar."

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SNOHOMISH COUNTY REPORT
by **REBECCA CLARK**

David Kastle and **Mark Patterson, Jr.** are planning a Gonzaga University reunion for graduates from 1982 through 1985. The affair will be held in June and is entitled "Heidelberg West," an attempt to recreate the frenzied goings-on which took place at term's end during their Gonzaga days. Subpoenas will be served. **Mark Roe** from the Snohomish County Prosecutor's office has taken his vacation time to travel to Tempe, Arizona to watch the Mariners play "Cactus League." **Kevin McConnell** has given up his Lynnwood practice to join the Peace Corps, and **Julie Sevenich** has closed her Edmonds practice. **Meri Kremian** is office-sharing with **Steven Shea** in the Wall Street Building. Shea moved over from Yakima not long ago to take over **Gloria Hazelton**'s practice. Hazelton went to California to recuperate from a back injury. **Randy Beitel** has left Evergreen Legal Services in Everett to work for the WSBA. Beitel was taking over for **Roh Friedman**, who is taking an unpaid leave of absence in China; news from Rob is that it's cold over there. **Bob Zosle**, a private attorney, will take Beitel's place on a part-time reduced fee contract. **Dave Neupert** and **Cindy Tims** have recently joined the Snohomish County Public Defender's office.

SPOKANE COUNTY

Governor **Booth Gardner** announced the appointment of Spokane Attorney **Michael Ormsby** to the State Advisory Committee on Social and Health Services. Ormsby will chair the committee this year and serve a four-year term on it. The committee advises the Department of Social and Health Services on policy matters. Ormsby is a member of the firm of Lukins & Annis, the Board of Trustees of Eastern Washington University, and a former Spokane School District member.

WASHINGTON WOMEN LAWYERS

by LAURA INVEEN

Chinasaurs Exhibit. WWL is pleased to announce its participation in "Chinasaurs" on May 20 from 7 to 10 p.m. WWL is one of the few groups which has acquired the Burke Museum at the University of Washington for a private showing of this world-famed exhibit of actual dinosaurs from the Sichuan province of China. We are turning this event into a fundraiser for our organization. All families and friends of WWL are invited to attend. Tickets are $10 for adults, $2.50 for children twelve and under. Light refreshments will be served, and at 8:30 a raffle will be held. $1 raffle tickets and reservations for this event can be obtained by sending your check payable to Washington Women Lawyers, Dexter Horton Building, Suite 618, 710 Second Avenue, Seattle, WA 98104.

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Maneki Restaurant, Seattle: dinner for two;
Louie's Cuisine of China, Seattle: dinner for two;
Yuen Lui Studios, Seattle: one 11 × 14 portrait w/sitting;
Husted Art Gallery & Frame, Seattle: gift certificate;
Hester C. Mallonee, Attorney at Law, Des Moines: inflatable dinosaur.

Office Move. WWL has moved its quarters to a much-improved space in the Dexter Horton Building, at the address indicated above. Our phone number remains (206) 622-5585. Thanks to the members and friends who helped orchestrate this move, including retired judge **George Revelle**, and judge **Faith Enyeart**, who donated many of the furnishings.

Executive Director Resignation. We are sad to announce the resignation of **Kathlin Persinger**, our Executive Director for the past two years. Kathlin's duties as newly-appointed King County Superior Court Judge **Michael Fox's** bailiff will prevent her from continuing as our director. Kathlin will be sorely missed.

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DISCIPLINE

Disbarred

Auburn attorney William C. Trumbull (admitted 1977) was disbarred by the Washington Supreme Court on February 29, 1988, based on four separate instances of failing to cooperate in the Association's investigations of four complaints and for failing to appear for a deposition after the Association served him with a subpoena.

IN MEMORIAM

Frederick N. Hoover of Seattle died February 16, 1988 while skiing in Sun Valley, Idaho. Born in 1920 in Mineral City, Ohio, Hoover was graduated from the University of Notre Dame and its Law School and the Harvard Business Schools. Hoover had been in private practice in Seattle for the past 40 years. Remembrances to the Children's Orthopedic Hospital or 101 Club Scholarship Fund.

Robert Ward Freedman of Seattle died in January 1988 at the age of 53. An orphan, Freedman moved to Seattle from Butte, Montana, his senior year of high school. He completed his undergraduate and law degrees at the University of Washington.

Dean Bender of Bellevue died in January 1988 at the age of 54. A native of Paterson, New Jersey, Bender earned his bachelor's degree from Washington and Lee University in Lexington, Virginia and his law degree from the University of Washington. A partner in the Seattle firm of Schroeter, Goldmark & Bender since 1966, Bender was a past president of the Washington State Trial Lawyers Association.

George H. Freese, a former judge on the Adams County Superior Court, died January 20, 1988 in Ritzville at the age of 91. A 50-year member of the Washington State Bar Association, Freese was born in Tilden, Nebraska. He was graduated from Ritzville High School in 1916 and began private practice in 1927 after graduating from the University of Idaho Law School and passing the Idaho and Washington Bar exams. Freese was Adams County Prosecuting Attorney from 1931 to 1939, Ritzville City Attorney from 1940 to 1952, and Adams County Superior Court judge from 1959 until his retirement in 1971.

James Paton Hunter of Everett died January 24, 1988 at the age of 72. A native of Cowley, Wyoming, Hunter attended Bothell High School and received his B.A. in 1936 and law degree in 1939 from the University of Washington. A senior partner in one of Everett's oldest law firms, Hunter was a member of the American College of Trial Lawyers. He incorporated the town of Mukilteo in 1947 and served for many years as city attorney for Mukilteo and other Snohomish County cities. Hunter was the oldest active attorney in Snohomish County at the time of his death. He received the Most Excellent Order of the British Empire from Queen Elizabeth for his service during World War II. Remembrances to the James P. Hunter Memorial Schol-

HOW WOULD YOU DECIDE THIS CASE?

The Plaintiff is a client of the firm of attorneys, but also became a partner with one of the attorneys in several real estate projects. The arrangement was for the attorney to provide the financing and the plaintiff to develop the property for a percentage interest after the property was sold. All agreements and contracts were completed through the attorney's firm.

Sound familiar? Read on.

The plaintiff demands damages for amounts that are due as a result of breach of contracts and agreements in the real estate dealings. The plaintiff ALSO demands damages in failing to properly represent him as an attorney. The allegation is that the attorney who was a partner in the venture was also a member of the firm that drafted the contracts and that, therefore, the plaintiff was not adequately represented.

How do you think the court found?

Decision: in favor of plaintiff and a substantial malpractice claim was paid by the attorney's insurance company.

What lesson is to be learned from this case?

Attorneys often do not separate their private business ventures from their law practice. EVEN IF ANOTHER MEMBER OF THE FIRM HANDLES THE LEGAL PROCEEDINGS, the plaintiff can later allege a conflict of interests . . . usually successfully!

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Ronald H. Mentele, 58, died February 23, 1988 in Seattle. A graduate of Creighton University, Mentele joined the Bar in 1960 as a hearing examiner for the State Board of Industrial Appeals. From 1962 to 1964 he was an assistant attorney general. Between 1964 and 1975 he practiced with several Seattle firms, then joined Helsell, Fetterman, Martin, Todd and Hokanson, where he was a partner and an expert in personal injury litigation. His distinctions were many: since 1983 he has been listed in each addition of the book *The Best Lawyers in America*, and he was elected a Fellow of the American College of Trial Lawyers in 1984. Survivors include his wife and eight children.

Michael T. P. McGrorey, 38, died March 8, 1988 in Seattle. A San Franciscan, McGrorey was graduated from Stanford University in 1972 and received his law degree from the University of Puget Sound in 1984. Formerly associated with the Service Employees International Union as a research director and as an attorney with the Washington State Labor Council, McGrorey was associated with the firm Hight and Green at his death. Survivors include his wife, son, and two sisters.

Robert L. Charette, 65, died January 16, 1988 in Aberdeen. A UW School of Law graduate and World War II veteran who received the Purple Heart for distinction in the Pacific, Charette served as Grays Harbor County prosecutor and judge of the superior court as well as a member of both houses of the Washington Legislature. The House of Representatives, which Charette led as majority leader from 1973 to 1975, praised him in a resolution as a small town lawyer of "sharp wit and deep convictions," who "let it be known that both country and city folk were good people, but country folk were stronger and wiser." A memorial service was held January 23 in Aberdeen.

John F. Wynne, 68, died February 16, 1988 after a short illness. Born in Wigan, England, Wynne was a Navy veteran of World War II. He was graduated from Seattle University in 1949 and Georgetown University School of Law in 1951. In 1953 he established his practice in Vancouver, Washington with Blair, Schaefer, Hutchinson, Wynne, Potter and Horton. Wynne was Vancouver city attorney from 1958 to 1965, and counsel to the Clark Public Utility District from 1966 to his death. Survivors include his wife, six children and twelve grandchildren.

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George H. Bovingdon, 81, died March 11, 1988 in Seattle, four days after the death of his wife Ivarose. A Seattle native, Bovingdon took his undergraduate and law degrees from the University of Montana, then returned to Seattle to practice law in 1933.

A talented musician, Bovingdon played trombone in the Tacoma and Seattle Philharmonics and the Seattle Symphony under the legendary Sir Thomas Beecham. A patron for nearly 30 years as well as a trustee and president of the Seattle Youth Symphony, he was also a member of the Municipal League, the Municipal Art League, and other civic enterprises.

Bovingdon's legal career was equally distinguished. He was a trustee of the Seattle-King County Bar Association and a member of the Board of Governors of the Washington State Bar Association (1958-1962). Survivors include a son, two daughters, and seven grandchildren.

ET ALIA

Nurse-Attorney Group Seeks Members

Puget Sound area nurse/attorneys are meeting to explore interest in forming a local organization. They'll be meeting Thursday, May 19 from 6 to 8 p.m. at Schroeter, Goldmark & Bender, 810 Third Avenue, Suite 540, Seattle, WA 98104. Contributions are requested to cover refreshments. Contact Judy Massong (h: 285-8074; w: 622-8506); Sharon McTavish (h: 328-0683; w: 386-6847); or Carol Stock (h: 329-1324).

Courageous Advocates Sought

The American College of Trial Lawyers is seeking nominations for its prestigious award honoring courageous advocacy. The award, given only a handful of times over the years, recognizes outstanding efforts by a lawyer—whether or not a member of the College—in behalf of a controversial cause or client where the representation occurs in the face of actual or possible disfavor or public unpopularity or adverse treatment by the media of the lawyer, client or cause.

The College seeks nominations from throughout the United States and Canada. Submissions should include a resumé of the nominee, copies of newspaper accounts of the matter handled by the nominee, and letters of support from members of bench and bar who have knowledge of the matter, and should be sent to DeWitt Williams, Williams, Kastner & Gibbs, P.O. Box 21926, Seattle, WA 98111-0040.

IRS Warns, Seeks Input

Confusion over the meaning of Section 1572 of the Tax Reform Act is forcing the Internal Revenue Service to return notices of foreclosure for correction or more information before processing to deal with federal tax liens can begin, District Special Procedures Chief A. C. Zack recently wrote to WSBA President Jack Dean.

"The two items most frequently omitted are a copy of the applicable tax lien, or pertinent information therefrom, and the approximate amount of unpaid principal obligation remaining on the contract, in addition to the amounts in default," Zack said. "Although it is not required by law, it would be most helpful if we could have the zip code or city for the property in question if a full street address is unknown."

Zack said that most forms for notice of intent to forfeit were printed before the 1986 Tax Reform Act, and are only designed to meet the requirements of RCW 61.30 and do not require the information the IRS needs. "Perhaps the problem could be solved with a standardized form which would include the federal requirements," he speculated.

For the full requirements, see Internal Revenue Code Sec. 7425(c) and/or IRS Publication 786, "Instructions For Preparing Notice of Nonjudicial Sale of Property and Application for Consent to Sale." To make suggestions on how to solve this problem, contact the Chief, Advisory Section, IRS District Office, 915 Second Avenue, Seattle, WA 98174; tel. (206) 442-7605.

RE: RCW 19.52.020(1) Interest Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in April 1988 is 6.21 percent. The maximum allowable interest permissible for **May, 1988** is thus **12 percent**. For further details and past rates, see the October 1987 *Bar News*, page 39.

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