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Volume 43, No. 9, September 1989



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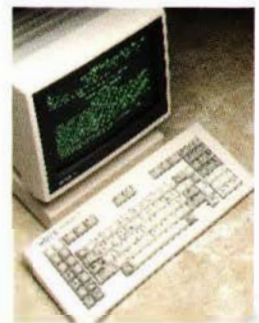
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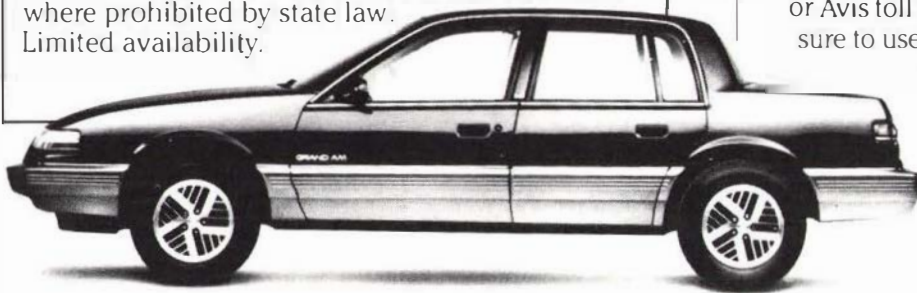
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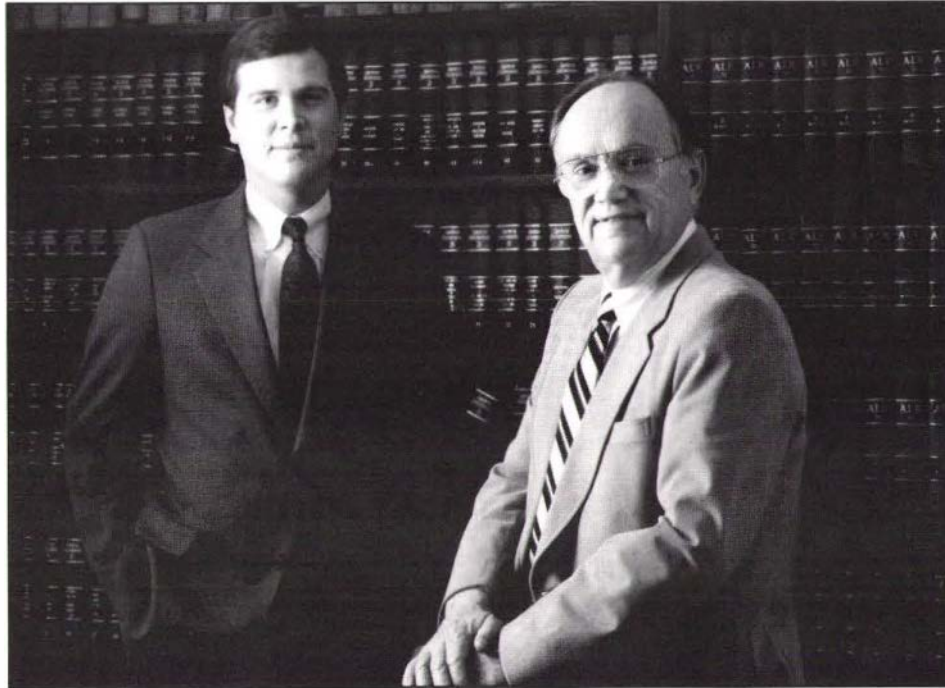
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Letters to the Editor of reasonable length are invited. Such letters should be typed and signed. The Editor reserves the right to select communications or excerpts therefrom for publication, and to edit any letter as may be appropriate.

Maybe It Should Be Printed On Yellow Paper, Too

Editor:

The July *Bar News* section "Board's Work" was a delight. I have never before appreciated what fun a Board of Governor's meeting could be. Somehow the minutes of meetings I attend never provide the flavor you have, although I cannot decide if I liked more the paragraph headings regarding hair-splitting young lawyers and circuitous discussion or the definition of metaphysics and comment on commandment of the receding tides.

I have finally discovered a reason, beyond guilt, to read about the Board's Work. Keep up the fine work and light touch.

SHARON SWENSON HOWARD
Bellevue



Editor:

I truly loved your notes on "The Board's Work" (July 1989). Keep such a sharp eye and ear, and the Bar may really read your column.

KEITH T. McCLELLAND
Seattle

Immigration Consequences: Clarification

Editor:

I was pleased to see your July issue featuring immigration law and particularly "Immigration Consequences of Criminal Activity." By way of clarification for criminal defense practitioners, the severe immigration consequences of The Anti-Drug Abuse Act of 1988 arguably apply only to federal, and not state, drug crimes. Smith, D.H., "INS Detention: Law and Policy," Vol. II *Advanced Topics Immigration and Nationality Law 1989 Annual*, 118, 127. Wolf, R.C., "Anti-Drug Abuse Act of 1988: Deportation of Aggravated Felons," *Ibid.*, 571, 574.

Thank you for publishing important information about this complex topic.

BERNICE FUNK
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Voir Dire: Dare To Be Dull, And Other Thoughts

Editor:

I must take exception to the position stated by my 12 friends on the King County Superior Court bench on the subject of voir dire. What is the complaint about voir dire anyway? The criticisms seem to be that it takes too much time, that jurors don't like it, and, presumably, judges are tired of it, too. There doesn't seem to be any criticism that it doesn't produce justice. That, it seems to me, ought to be the only criterion. Voir dire ought to be limited solely by objections for good reasons, sustained by the court. If the parties aren't objecting, then where is it the business of the judges to restrict the voir dire process? We are not here to please jurors and satisfy their expectations of what jury duty would be like. And I am extremely tired of sacrificing everything in the name of efficiency. The solution to the backlog of court cases is more personnel to keep pace with the growth in the population of this county. The solution is not a less-fair trial or less justice. Parties take their chances in conducting an extensive voir dire of offending the jury, boring the jury, or turning the jury against them. It is not the court's business to protect them from themselves. But parties have a right to a fair and impartial jury. Parties also have a right to make some of those determinations for themselves in the form of peremptory challenges. They also have a right to conduct enough voir dire to develop challenges for cause based on bias and prejudice. You can't do that in a three-minute voir dire! It takes some time to find out enough about a person to make a decision and exercise one's rights knowingly and intelligently. Justice takes time. The process is meant to be slow, contemplative, and deliberative. It is meant to be careful. It is meant to protect the rights of the litigants. It's serious business, and not to be dismissed lightly in the name of efficiency. It is also still an adversarial process by the Constitution, and not simply a judicial administrative process. Granted, some lawyers, perhaps a lot of lawyers, do not know what they are doing in voir dire. The solution is education, not restrictive rules. You don't throw the baby out with the bath water.

The judges' eight suggestions are well taken. But a time limit is nonsense, as no one can possibly anticipate in advance a juror's answers, or even the kind of panel that will be drawn. What is one person's "irrelevant minutiae" may be another's key to the psychological profile of a potential juror. Certainly, without objection from the opposing parties, it is not the court's province to determine which is which in advance. Furthermore, where is it a juror's "right" to avoid intense interrogation? Quite to the contrary, it is a juror's duty as a citizen not only to be a juror but to be an honest, fair and impartial subject to intense questioning. Frankly, it would do for the court to adopt a standard instruction that strictly and in no uncertain terms advises jurors of their duty to answer voir dire questions absolutely honestly, openly, and frankly, and that if they don't, their omission or error may be the subject for a mistrial and expensive retrial of the case. We all know that all too often jurors do in fact lie in their voir dire answers, often because either they very much want to be on the jury or very much do not want to be.

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Lastly, I think a certain amount of "educating" the jury during the voir dire is necessary. Perhaps the court ought to do it in a more lengthy opening statement about what the case involves. It is impossible for a juror to candidly and honestly tell you about his bias or prejudice if he doesn't know what the case is about. A juror has to have some context in which to consider the individual voir dire questions. In fact, a little time spent in the beginning may save a lot in the

end. To that end, I have often thought the system informally employed by Judge Robert S. Day of the Benton-Franklin County Superior Court had considerable merit. His unwritten rule was that you can do anything you want with the first three or four jurors. If you haven't got the entire panel educated in what the case is about by then, you're never going to. I remember vividly one experience in Judge Day's court in which taking maximum advantage of that rule led to an

incredibly revealing voir dire in which the biases and prejudices of the jurors were brought out in full flower, thoroughly discussed over a day and a half of jury selection, resulting in the case settling on the spot and saving the county a three-week trial.

I say to the court that we understand the pressures under which you are forced to operate. Fortunately, to the credit of most of the bench, you understand the problems counsel face on a case-by-case basis and allow meaningful voir dire. To those who favor arbitrary time limits, judicially-conducted voir dire, and other restrictive measures: let the lawyers do their work and assist them by demanding from jurors frank and honest answers and by being quick to strike jurors for cause. There is nothing more infuriating or dumber, after having laid the basis for challenging a juror for cause, than to have a judge say to the juror, "Well, Mr. Jones, despite all of that, do you think you can be fair and impartial in this case?" The juror always says yes, but it's the judge who is supposed to make the decision. If there is any question (and apparently there is if the judge asks it), then in fairness to the parties who are entitled to a fair and impartial jury the questionable juror ought to be immediately stricken.

I appreciate the judges' voicing their opinion. Let the debate continue. It's nice to hear judges and lawyers say to each other what they really think.

JAN ERIC PETERSON
Seattle

Voir Dire: Luvera Responds


Editor:

Thank you for the opportunity of responding to the comments regarding my article about voir dire.

I am very pleased that my article on the important subject of jury selection has stimulated so much useful discussion. I sincerely thank the judges for taking the time to respond. I am sorry some superior court judges perceived the article to be an individual attack upon them. It was my intention to do nothing more than express my honest observations about what I have personally seen and experienced in the trial of lawsuits over the past 30 years.

Obviously, one has two choices in discussing significant issues involving the judiciary: "to say what they want to hear

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or to state one's honest personal views." I think it is vital, even though it may be unpopular, for both the trial bar and judiciary to have open, honest and straightforward discussions about issues affecting justice in our courtrooms.

I, too, hope that the trial bar and judiciary can continue to have a cordial and professional relationship especially in regard to discussions about such important issues as achieving fair trials before impartial juries. However, in my view, there is far too little honest communication between trial lawyers and the judiciary. That is why I welcome this exchange and encourage further communication about this subject.

I should also acknowledge that the judges who have responded to my article and the majority of judges in whose courtrooms I have been privileged to try lawsuits are competent, empathetic and capable jurists.

I certainly concur with the judges' recommendations to trial lawyers about preparing for jury selection and their suggestions about some of the possible questions to be asked. I also feel Judge David Nichols has written a very excellent and thoughtful reply to my article.

However, he incorrectly suggests there are no seminars available on this subject. In fact, many seminars, books, and articles regarding the subject of the psychology of jury selection are and have been available to both trial lawyers and trial judges for many years.

The King County judges object to my suggestion that there are trial judges with antiquated belief systems or inadequate information about modern psychology. In fact, experienced trial lawyers confirm such judges do exist and are overseeing jury selection processes to the injustice of litigants.

In my view, the judges focus on the wrong issue when they cite juror complaints about the selection process. The process of jury selection was not created for the convenience of jurors but was rather intended to ensure an unbiased jury in order to achieve impartial trials for litigants. Even when conducted appropriately, the process can be intrusive, boring and even somewhat offensive to an individual juror. That does not make it ineffectual or lacking in importance in achieving the objective for which it was originally created: justice for litigants.

I agree with the judges' definition of the purpose of the voir dire process. I

also acknowledge, as I did in the article, there is abuse of the process. I too accept that the role of the trial judge is to oversee voir dire.

I am compelled to take exception, however, to the idea that experienced, qualified trial judges should adopt arbitrary time limits or any other arbitrary rule in order to curb lawyer abuse when such rules can lead to injustice for litigants. I think it is the obligation of the trial judge to exercise appropriate con-

control over the process depending upon the circumstances of each case.

I again contend, in the rush to end lawyer misuse of voir dire or in the effort to reduce the backlog of trials we cannot overlook that the purpose of trial is to accomplish justice for the litigants.

Neither saving time nor making jurors content should be the paramount objective of trials. Speedy justice is not necessarily the panacea, and my fear is that if arbitrary time limits or other simi-

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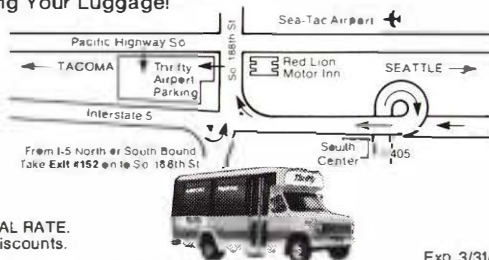
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lar rules are imposed on the voir dire process, we run the risk of losing sight of whom the jury system was designed to serve. I again urge that the voir dire process is not for the benefit of the jury, nor the judge, nor the trial lawyer but rather the litigants.

I submit that we, the trial bar and the judiciary, have a solemn and mutual obligation to provide an arena where an impartial jury of one's peers dispenses justice rather than merely an arena of

efficiency or speed.

PAUL N. LUVERA
Mt. Vernon

Kudos for LAP Confessionals

Editor:

A brief word of appreciation and thanks for the *Bar News*' continuing publication of "In the LAP Personal Histories." The columns very effectively portray the pressures, doubts and con-

cerns that affect many of us in the profession. The columns also graphically describe the dangers created by inappropriate self-help responses and remedies we too often adopt to cope with these problems. I have found these real-life stories to be touching and a positive inspiration. I have not used the Lawyers' Assistance Program services myself, but find it comforting that these services exist, and are utilized with such apparent success.

Thank you for continuing to provide LAP's probably most comprehensive and effective coverage.

ANDREW WEISBECKER
Seattle



Editor:

As former King County prosecutors who worked extensively with survivors of sexual assault/abuse, we were so moved by the article on incest included in the LAP section of the July issue. We wanted to commend the author for her/his courage, not only for her/his own commitment to heal, but also for so bravely sharing the experience with others. We have been very impressed with the magazine section on LAP because of the need to talk about addiction and lawyers. We commend you for being willing to talk about the issue of incest.

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Increased Filing Fees Will Help Many

Editor:

Ian Macrae expressed concern in his June letter over the proposed increase in superior court filing fees from \$78 to \$100 which would be used to help provide civil legal services for low income people in Washington. The Legal Aid Committee of the Bar Association is also concerned about the effects of increased filing fees.

The plight of civil legal services for low-income people in Washington is so severe, however, that immediate relief is absolutely necessary.

The low-income population continues to grow at a rate four to five times faster than the general population. The present low-income population in this state (125% of poverty) is estimated at three-quarters of a million people. This does

not include the tens of thousands of migrant and institutionalized persons in this state.

The professional legal assistance available for these people is steadily decreasing because of lack of funding. At the present time, there are only 83 legal service lawyers in this state. The ratio is 1 lawyer to every 9,000 people. Current projections to 1990, given current funding levels, show a decrease of legal service attorneys to 74 with a continued growing low-income population to 800,000. The ratio then will be 1 lawyer to every 10,000 people.

Low-income people need the assistance of a lawyer much more frequently than does the average person. They have legal needs that concern the essentials of living: adequate food, income, shelter, medical services, and protection of the family unit.

The problem of adequate legal representation for low-income people is not one of luxury but of basic justice. It is a problem not only of the low-income people and not only of the handful of legal service attorneys who serve them; it is a problem of the legal community in particular and of society in general.

In direct response to Macrae's concern for the class of persons "who are not 'poor' but who are struggling hard to make ends meet," the proposed filing fee legislation provides: "The court may waive filing fees . . . upon an affidavit by a party that the party is unable to pay the fee due to financial hardship."

Access to the courts represents access to justice for people of upper, middle and no income.

WILL ROARTY
Chair, Legal Aid Committee
Seattle

Remembering Judge Voorhees

Editor:

In the early 1970s, Randy Squires, Mike Schestopol and I dutifully rode the View Ridge bus to and from the chairs more or less permanently reserved in the DeGarmo, Leedy, Oles & Morrison library for law clerks and new associates. We were joined in our daily commute by Donald S. Voorhees, then a senior member of another law firm. Voorhees, in that genial and gentlemanly fashion of his which was so well-known to many of your readers, inquired after our activities and generally made us feel wel-

come as fellow members of the Bar.

After Judge Voorhees' appointment to the bench, and until fairly recent days, I continued to see him occasionally on the same bus and observed that he typically sought out young lawyers and exhibited the same interest and encouragement which had so impressed me earlier. Judge Voorhees was truly a gentleman and a scholar, to one and to all.

From here on out, both our bench and the View Ridge bus are going to be light

one sorely missed rider.

ARTHUR D. McGARRY
Seattle

And While I'm At It —

(The following letter was addressed to WSBA President Elizabeth Bracelin.)

Dear Mr. Bracelin:

I enjoyed your column ("The President's Corner") published in the July *Washington State Bar News*. I especially

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Perils of Appeal — Part IV

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enjoyed your droll comment on the local bar association meeting notice I sent out in which I referred to "girl lawyers" and "faggot sports events" (meaning tennis, of course).

Believe it or not, one local lawyer thought you were seriously criticizing me about sending out that notice. I pointed out to him that your tongue was obviously firmly in cheek. The tip-off was where you said "comments [about girl lawyers and faggots] have no place in official Bar publications," having just seen to it that those comments made the *Washington State Bar News*.

Two things puzzle me, however. First, where did you get that odd first name of "Elizabeth"? Second, why do you publish a picture of your wife in your column, rather than one of yourself?

With warmest regards, I am

JOHN L. ERICKSON
President, Whatcom County Bar
Association

Infelicitous Phraseology Department

Editor:

I know now how appropriate it was that I retired three years ago after having toiled in the legal vineyards for 37 years. I thought all along I was practicing law. I learn now that such a vocational characterization is perhaps archaic, and possi-

bly demeaning, if recent correspondence received by me is any indication. To wit: a member of the Tacoma-Pierce County Bar Association, aspiring to an appointment to one of three new superior court judgeships created by the 1989 Legislature, began a resumé to fellow attorneys as follows:

"With ten years' experience in all components of the justice services delivery system, I am qualified to serve in this position. . . ."

I know now that I left the practice at a *Tempus Utile*.

WILLIAM ERIC ROHRS
Tacoma

Lien Laws Need Changes

Editor:

Isn't it time the labor and materialman's lien statutes were amended to prevent imposition of a lien on a property where the property owner has paid the contractor for all labor and materials but the contractor has failed to pay the laborers or materialmen, and the contractor is judgment-proof or has filed bankruptcy? Materialmen are particularly in a position to judge the risk of extending credit and to spread that risk to all contractors. The problem for the homeowner is often compounded when payment is made in full to the contractor who then not only fails to pay the labor-

ers and materialmen but also fails to complete the job.

THOMAS M. BLAKE
Seattle

New Burden of Proof in Yakima County

Editor:

As legal counsel for Yakima County Superior Court, I had the pleasure of appearing on behalf of the Court at a hearing involving a guardianship case. That case set a new burden of proof in at least guardianship cases in Yakima County. The order, artfully drafted by a local attorney, indicates that payments "shall not be extended or modified, except by court order entered after an awfully strong and persuasive showing of exceptionally unforeseeable and unavoidable causes of an incredibly great magnitude." No one quite knows where this burden falls on the continuum from a preponderance of the evidence through clear, cogent, convincing to beyond a reasonable doubt. However, all attorneys should be beware that this burden of proof does exist in Yakima County, Washington.

JEFFREY C. SULLIVAN
Prosecuting Attorney
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 500 Westin Building 2001 Sixth Avenue
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 Printed by United Graphics, Seattle

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PUBLISHED the last day of the month before cover date. Editorial deadline 25th day of month for *second* issue following. Direct correspondence to *Washington State Bar News*, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599, telephone (206) 448-0441. All editorial material, including editorial comment, appearing herein represents the views of the respective authors and does not necessarily carry the endorsement of the Association or the Board of Governors. Likewise, the publication of any advertisement is not to be construed as an endorsement of the product or service offered unless it is specifically stated in the ad that there is such approval or endorsement. SUBSCRIPTION, included in active membership, is \$12.00 a year for inactive members (WA State residents add \$0.98 WA State Sales Tax), and \$24.00 a year for nonmembers (WA State residents add \$1.97 WA State Sales Tax).

**As Many Farewells
 as Be Stars In Heaven...**

— *Shakespeare*
Troilus and Cressida
Act IV, Sc. 4

This is my last column in the *Bar News* — September being the time when I am officially replaced by a good friend, Jim Vander Stoep, who will ably preside over the business of the Bar for the next year.

I take this opportunity to thank the members of the Association for their kind words of support and encouragement in a year which could have been very difficult for the lawyers of Washington state. As a united Bar we accomplished some major feats — a significant reduction in our budgetary deficit, keeping intact RPC 1.5, successfully dealing with the press on matters relating to the Bar and other important issues. More importantly, I have witnessed an increasing interest in Bar activities by our members and a willingness to share their ideas regarding the Bar with members of the Board of Governors and with myself. I trust and believe that the decisions made by our members to participate in Bar activities or simply to provide substantial informal or formal input to the Board will not be short-lived. The members of the Board of Governors need to be made aware of their constituents' views on all kinds of matters that come before the Board. The members of the Association have been extremely vocal in the past year regarding items being considered by the Board and, as a result, the Board has had far better information which assists it in making important decisions which affect lawyers and consumers of legal services.

A great big thank you is also in order for the members of the Board of Governors with whom I have worked during the past year. Rarely have I met such a conscientious group of people. They have devoted, collectively, literally thousands of hours during the past year handling the business of the Bar, doubtless at considerable cost to themselves.



Elizabeth J. Bracelin

Perhaps more importantly they've done it with a sense of humor and humanity that consistently amazes me so... a special thank you to Jeff Tolman, Mike Carlson, Paul Stritmatter, Ed Shea, Don Curran, Bill Bergsten, Julie Weston, Jim Turner, Ron Gould, and Steve DeForest. The Board's work was accomplished because these people were there to see that the job got done.

Finally, my gratitude to John Michalik, our Bar Executive, for all of the considerable assistance and friendship he has given me in the past year. Without his help the Board and I would have had insufficient information about matters coming before us. The same is true of the Washington State Bar Association staff — an excellent, dedicated group of people who provide services, directly and indirectly to all members of the Association and to the public.

I have very much enjoyed being president of the Washington State Bar. It is, without doubt, the greatest honor I have ever been accorded and will stand for me as the highlight of my professional life. My best wishes and congratulations to Jim Vander Stoep as he steps into the presidency. Jim is a wonderful man and will serve our Association well.

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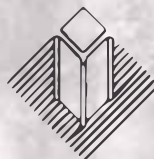
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State Bar Association Recognition For Singular Achievements

by **John J. Michalik**

WSBA Executive Director

In the May 1989 issue of the *Bar News* I was pleased to use this column as one of but many vehicles designed to solicit nominations for a series of Association awards for service to the profession and the public. Nearly 50 separate nominations were received: all reflecting outstanding service and contributions by individuals, law firms, and law-related organizations. From these many nominations, and after a careful and difficult screening process, the Board of Governors has selected the recipients of the awards for 1989. The nominations were so impressive that, though not required, awards were made in all categories. I am pleased to provide a brief sketch of each award and its recipient. The awards themselves will be presented at the State Bar Convention later this month.

The Association's highest honor, the *Award of Merit*, will be presented to Spokane attorney **Smithmoore P. Myers** in recognition of his continuing contributions to the profession and the public over a nearly 50-year career in the law. In addition to long-time service as Dean and Professor at the Gonzaga University School of Law, Myers has experienced other "separate" legal careers as an Assistant State Attorney General; United States Attorney; United States Magistrate; and private practitioner. Dean Myers' nearly five decades of dedication in teaching, practicing and adjudicating — combined with a continuing spirit of public interest and community service — made him a singular, notable nominee for the Association's highest award.

1989 marks the first year for the Association's *President's Award*, presented for special accomplishments or service during the previous year, generally in connection with one all-consuming project. The efforts of many lawyers were exemplified in the decision to

award two President's Awards for 1989, with one of those shared among three lawyers. One President's Award will be presented to Seattle attorneys **Kelly P. Corr**, **Robin Thompson** and **Robert Rohan** for their magnificent work for the WSBA on the AIDS Task Force. The second President's Award will be presented to Professor **Richard Kummert** of the University of Washington School of Law for his persistent and Herculean efforts involving major responsibility for the 1989 revision of the State Corporations Act.

The *Board of Governors' Award for Professionalism* will be presented to Tacoma lawyer **Warren Peterson**. This award is designed to recognize a member who exemplifies the spirit of professionalism in the practice of law, through service to the public and in the sharing of values with other members of the profession. Peterson's long-time career in Pierce County drew a series of nominations for this award, all stressing what the Board of Governors found to be exactly the case — an individual lawyer whose commitment to the highest standards of practice and the sharing of those standards with others seems unparalleled in its impact.

The **Benton-Franklin County Bar Association** and Everett attorney **H. Scott Holte** were named recipients of the *1989 Pro Bono Award*. In the case of the Benton-Franklin County Bar this represents recognition of the participation of nearly 100% of the attorneys in those counties in pro bono legal services programs. Holte is recognized for his "out in front" leadership in organizing, promoting and maintaining pro bono efforts in Snohomish County.

His fellow judges in the District and Municipal Court Judges Association nominated Judge **Tom Huff** of the Yelm Municipal Court for the *Outstanding*

Judge Award. Judge Huff was appointed to the Yelm Municipal Court in 1975 and has served as a nonattorney judge in that position for the last 14 years. His record at the local and state level has been complimented by activities with the National Judicial College. He has also served as Executive Director of the National Judge's Association and in 1988 was recognized by that Association as the outstanding nonattorney judge in the United States. National recognition aside, it was Huff's record in his own community which most impressed the Board in selecting him for this WSBA Award.

The *Angelo Petrus Award for Lawyers in Public Service* was created by the Board of Governors in honor of the late Angelo R. Petrus, a Senior Assistant Attorney General who passed away in the midst of a term of service on the Board of Governors. Selection criteria, mirroring Petrus' own career, are based upon demonstrated significant contributions by a lawyer in public service to the legal profession, the system of justice and the public. The inaugural recipient of this award is Olympia attorney **John Gray**. A founding member of the Thurston-Mason County Pro Bono Program, Gray has taken the lead not only in providing pro bono legal service and overall direction to that program, but in recruiting other government lawyers to pro bono service. While maintaining that tie, Gray has most recently become a trustee of the Puget Sound Legal Assistance Foundation and has continued his involvement in a number of areas of public service in the footsteps of the path blazed by Angelo Petrus.

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The Evolving Nature of Legal Research

by James M. Murray

**“Lawyers know the law no better than other people;
they only know where to find it.”**

— *George III (according to tradition)*



James Quinn of the Gonzaga Reader Service staff at work in the computer lab at the law school library.

My profession as lawyer, librarian, and teacher provides me a broad perspective on new technology and, specifically, on the development of computer-assisted or -aided legal research (CALR). Technology has improved timely access to legal materials, especially during the past decade. While past, current, and future developments are important, far-reaching, and bode well for lawyers, the down side is that many of us are all too often overwhelmed or intimidated by the information explosion. Others of us are sometimes confused or misinformed on how to best use technology to our advantage in a cost-effective manner most suited to our location, type of practice, and sizes of our law firms.

I hope this brief article will clarify where we have been and where we are going and will eliminate some misconceptions and confusions. I also hope it will contribute insight for attorneys conducting cost-effective legal research as we rapidly approach the 21st century.

My comments are divided into nine sections: the responsibility to provide

thorough, reasonably necessary legal research; traditional legal research tools; the impact of new technology; current and new developments; trends to the year 2000 and beyond; economic considerations for lawyers and law firms; suggested minimum technical requirements for conducting legal research now and in the immediate future; selected listing of leading database vendors; and a brief listing of recommended articles.

Thorough, Reasonably Necessary Legal Research

RPC 1.1 states that competent representation shall be provided, representation requiring “the legal knowledge, skill, *thoroughness and preparation* reasonably necessary for the representation.” (Emphasis added.) Reasonably necessary legal research is certainly implied. Also, courts have recognized that both failure to timely act without any apparent reason and faulty legal research are questions of fact and may constitute malpractice.¹

Although I have not discovered any cases holding that failure to conduct CALR may constitute a breach of ethics or malpractice, such cases will likely occur in the future; dicta in several federal opinions indicate we may be moving in this direction. The Third Circuit recognized that “Use of computer-aided legal research such as LEXIS, WESTLAW, or similar systems is certainly reasonable, *if not essential*, in contemporary legal practice.”² (Emphasis added.)

The Rhode Island Federal District Court also said that CALR “is an essential tool of the modern, efficient law office.”³ It acknowledged that such a tool “. . . saves lawyers’ time by increasing the efficacy of legal research. Denial of reimbursement . . . in a proper case would be an open invitation to law firms to use high-priced attorney time to perform routine research tasks that can be accomplished quicker and more economically.”⁴

Another district court in New Jersey stated “that even experienced lawyers cannot function efficiently today with-

out the support of special tools such as the computer research systems of FLITE, JURIS, LEXIS, and WESTLAW."⁵

Traditional Legal Research

Prior to 1973, before the advent of LEXIS, and WESTLAW shortly thereafter, legal research was conducted in the traditional setting: a law library was a hard-copy, passive repository of information. If information was not available in the firm library, the next stop was the local academic or county library, assuming one was nearby. Barring that option, if no other local attorney had the information, the attorney was forced to phone or, finally, travel some distance to conduct research. A great deal of time and money was lost in traveling to and from a library or waiting for requested material to come by mail. Time pressures forced attorneys to resolve legal issues based upon their ability to reach a compromise with opposing parties. They were sometimes forced to "shoot from the hip," relying on intuition and experience rather than readily available

on-line legal information.

The Impact of Technology

With the development of CALR in the '70s, and the arrival in the '80s of affordable microcomputers and their ready acceptance into the marketplace, we have witnessed a revolution. Libraries are no longer passive centers of information. Lawyers increasingly view them as resources or "one-stop information centers with access to potentially thousands of other libraries."⁶ Attorneys can access hundreds of on-line databases without leaving their offices. As law libraries acquire other new technologies, such as compact or laser disks, attorneys can search holdings in more than one law library. Attorneys using the UPS Law Library, for example, can search all three law school library collections in Washington by using LaserCat, a CD ROM product produced by Western Library Network (WLN). (LaserCat is a listing on three compact disks of the holdings of all the nearly 400 WLN member libraries located throughout six states.)

This type of nearly instantaneous ac-

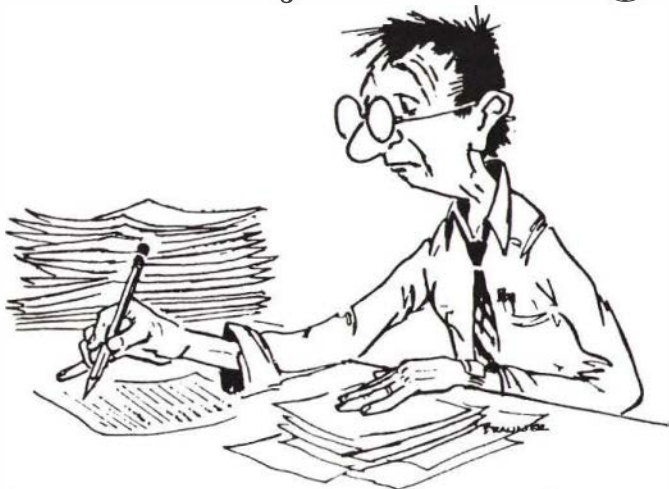
cess to information is especially beneficial to those attorneys in rural or remote areas. Quick delivery of hard-copy information is available, thanks to the telefacsimile.

The legal community has completely accepted on-line legal databases as reliable research resources: law is the only discipline in which "vast quantities of full-text electronic information are available for research."⁷

Current and New Developments

This is an exciting but challenging time for anyone interested in new, easily accessible legal resources. Even as hard-copy Washington state publications, such as R.H. Aronson's, *The Law of Evidence in Washington* (1986), and the multivolume *Washington Tax Decisions* (1987), are being developed, CD ROM products are being generated, and on-line resources are being created. WESTLAW, alone, introduced more than 70 new databases in 1989. The pace at which this is all happening and the logistics and costs involved are of con-

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cern to every participant in the profession, from large firms to academic law libraries to solo practitioners. One need only look at recent advertisements in the *ABA Journal* to see all the ways research can be conducted using computers and CD ROM products.

LEXIS and WESTLAW have federal cases, statutes, and state case law, and they are currently placing all 50 state statutes on line. WESTLAW already has 37. At this time, Washington statutes may be searched on LEXIS, which has 39 on line. However, LEXIS and WESTLAW contain much more than case and statutory legal materials. Both include Shepard's case citations and a large number of Bureau of National Affairs (BNA) publications as well, including materials such as *U.S. Law Week*, *Antitrust and Trade Regulation Report*, *Environment Reporter*, and *Daily Tax Report*. There are numerous other database listings of, and services provided by, these two information vendors, such as NEXIS news and information by LEXIS and key number searching by WESTLAW. Lists of databases, services, and fees are readily

available from these vendors.

The Martindale-Hubbell Law Directory is now available on CD ROM, the newest entry into the legal research field. Just recently, WESTLAW began offering CD ROM disks in the areas of tax administrative law, bankruptcy, federal civil rules, and government contracts. Matthew Bender has just published a new product called Bender's Federal Tax Service in both hard copy and CD ROM. The cost for CD ROM research materials is still very high, and only attorneys who concentrate in these fields may find this worth the expense. CD ROM disks, unlike on-line systems, are essentially limited by the amount of information that can be stored on a single platter.

A fairly recent and timely tool is telefacsimile. A few years ago, a good telefax machine cost well over \$5,000. In the last several years, as demand and use have increased, costs have dropped dramatically. These machines can transmit legal information instantaneously. All that is needed is a telephone, a dedicated phone line, and a willingness to pay any long-distance phone charges

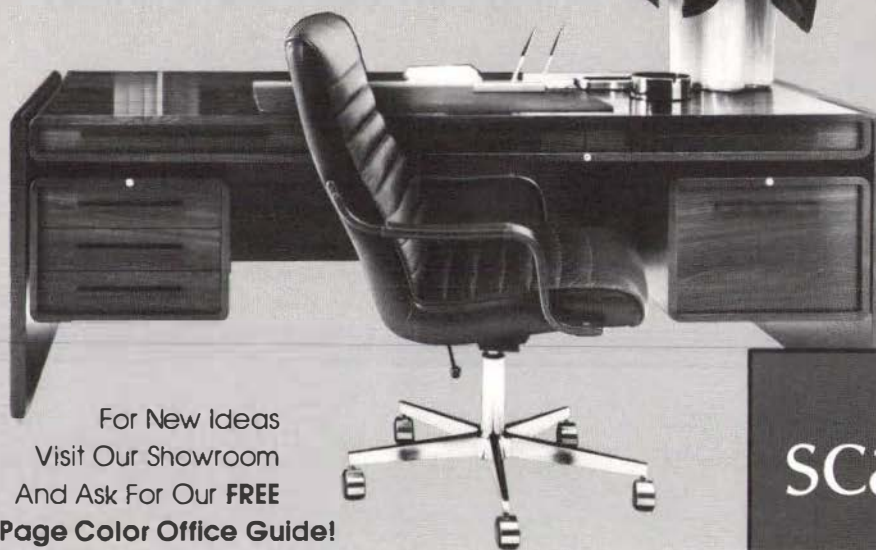
as well as a possible small document delivery fee to the sending institution or library.

Trends to the Year 2000 and Beyond

Much will happen. In the future attorneys will have the ability to find out the status of, and filings in, any given case, statewide merely by accessing any given court clerk's database. They will be able to obtain copies of recently released decisions and electronically file and view court documents. Does all this sound too far-fetched? A recent article in the July issue of the *ABA Journal* points out that the U.S. Supreme Court is considering publishing slip opinions only in electronic format, and the Federal District Court in Philadelphia is experimenting with electronic submission of documents.⁸

Because copying is so burdensome and expensive, the federal government is "actively incorporating new technologies, which means many products [delivered to depository libraries] will only be disseminated in electronic for-

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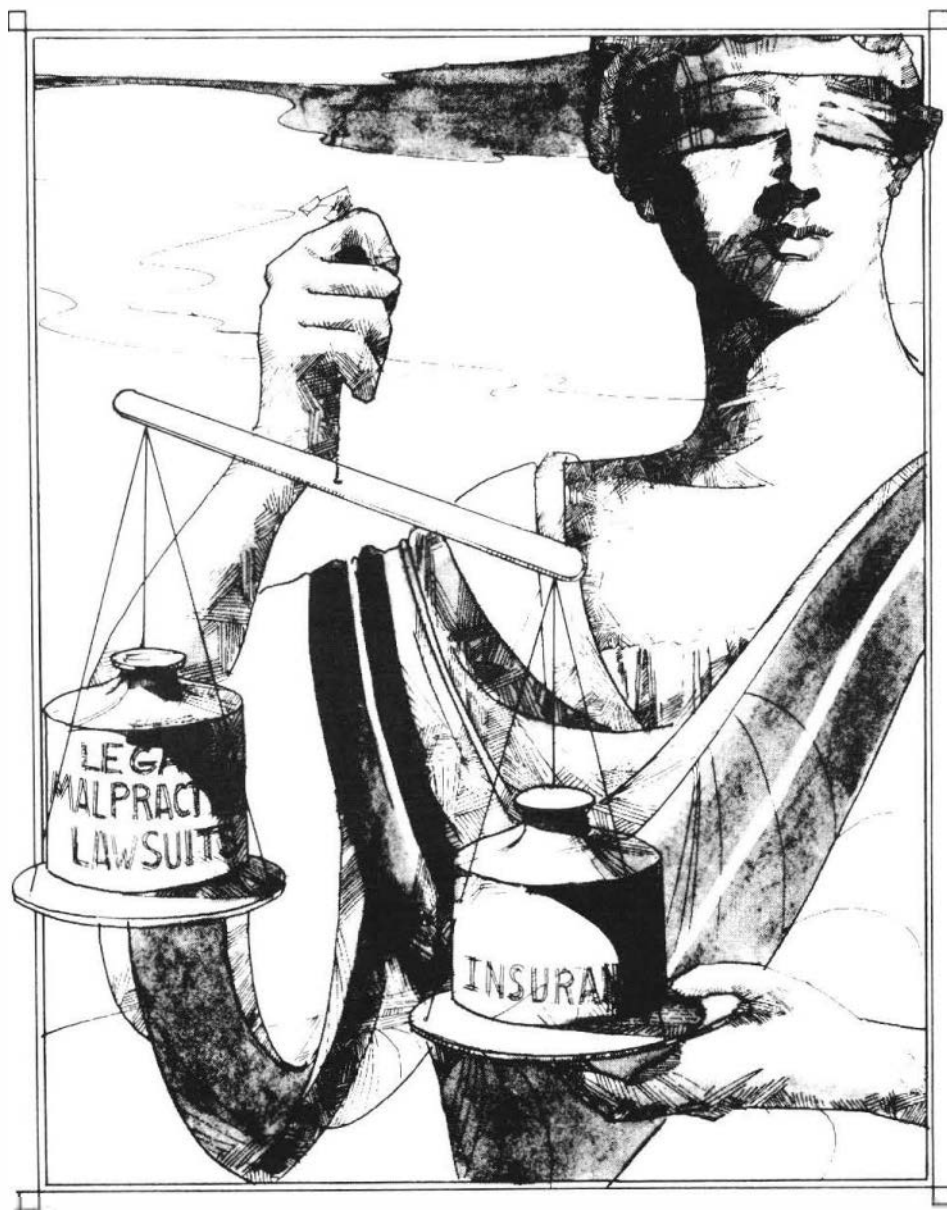
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mat; . . ."⁹ In future, those law libraries which hold government document collections will, by necessity, have on-line access to law-related government information. Subsequent developments may allow access via home or office workstation to more government information than ever before.

Law libraries will become centers where legal information worldwide will be accessible. Just recently, the American Association of Law Libraries' National Legal Resources Committee addressed the concept of a legal information network and concluded in part that "... the ideal is having all information anywhere accessible at the lowest possible cost to the individual researcher working at a computer terminal."¹⁰

This does not mean that books will disappear. A recent survey of academic research and law libraries disclosed that law deans and librarians predict the following scenario by the year 2000:

Books will continue to be published. Less information will be published in book format. More information will be available in multimedia format. More information will be available in electronic format. Microform will be replaced by information in electronic format. Computer technology will provide for analyzing queries and switching to appropriate databases. Distributed databases will coexist with on-line information services. Disk technology will replace approximately 25 percent of hard copy. Interactive television will not replace libraries as information sources. Newer technology will provide information faster and cheaper. Library technology will be characterized by a combination of networking personal computer, on-line databases and disks. Technology will have an impact upon numbers and composition of library personnel.¹¹

Another feature of law libraries of the future is that bibliographic information about library holdings will be available on line. For example, Gonzaga University recently received a U.S. Department of Agriculture grant to develop a library of the future, appropriately called the Center for Information and Technology (CIT). Researchers will

have (in addition to LaserCat, which I discussed earlier) on-line access to the holdings of participating law school libraries through CIT when this project is completed in the early 1990s.

Technology will also continue to impact the way legal research and writing are taught. Virtually all law schools now teach some form of CALR. However, since law graduates are traditionally weak in legal research skills,¹² law schools will graduate students who are more proficient in the use of both manual and computer resources.

Technology, as it becomes less costly and more affordable, will allow inter-

"...the ideal is having all information anywhere accessible at the lowest possible cost to the individual researcher working at a computer terminal."

linking of all legal resources, both nationally and worldwide. We are already seeing American law librarians preparing for this. From October 18-21, 1989, the first U.S. "Conference on the Global Responsibility of Law Librarians" will be held in Austin, Texas. The unification of the European economic community by 1992, coupled with the growing international focus of commercial law practice, will require attorneys to have timely access to international legal information.

There are also hundreds of nonlegal on-line databases, many of which are available through WESTLAW and LEXIS. They cover areas from agriculture to business to zoology. Their importance cannot be undervalued, since many provide support of legal arguments and positions. Attorneys with access to these resources have a definite advantage over opponents who do not search the same materials.

Telefacsimile transmission will become a necessity. It is already an important tool for lawyers.¹³ However, "junk

fax" and copyright issues must be addressed. In addition to having word processing and other capabilities, the lawyer's workstation of the future will be a completely self-contained unit with telefax, phone, copier, CD player, and printer. A portable laptop computer will be detachable for use on the road.

Finally, most large-firm libraries will begin to operate as profit centers.¹⁴ There is currently a reluctance by many clients to pay for firm librarians' research time. Nevertheless, the bookish solo librarian is being supplanted, not by computer technicians, but by highly skilled information specialists in the speedy delivery of library services.¹⁵ Many academic law libraries will provide information on a cost-recovery, and possibly for-profit, basis in order to support ancillary services to the bar and public. Just as many large-law-firm librarians today are experts in researching on line, paralegals in many small law firms will assume a specialized, significant role. Lawyers will need to concentrate on the planning and execution of their legal responsibilities and commitments to their clients. And for attorneys in solo practice unwilling or unable to pay the overhead for computer research, an increasing number of county law libraries and local bar associations will form cooperative arrangements for providing cost-effective group access. Law school libraries may provide a pay-as-you-use, on-line service charge for on-line research. WESTLAW already allows attorneys to use law school computer terminals by signing a "Subscriber D Agreement" in which attorneys or firms are assigned a user ID. They are charged directly for on-line time and pass the cost for research on to the client. Gonzaga Law School has many such subscribers. In fact, the computer center, which is located in the law library, is a WESTLAW Regional Training Center and a LEXIS Permanent Learning Center.

Economic Considerations

Government organizations or entities with large client bases may be able to automate for legal research without significant negative impact on overhead costs. For sole practitioners or small rural firms, however, costs may be considerable or even prohibitive. The litmus test is whether effectiveness and effi-

ciency improve enough to justify the investment. Whatever automation takes place, more money — not less — may be required, and this can impact an organization in many ways. At a 1989 conference at the University of Notre Dame Law School, entitled "Bricks and Books in the 21st Century," deans, professors, academic law librarians, and law school administrators all concluded that automation requires more professional staff, more work space, and law buildings intentionally designed for as yet undeveloped technology.

If a legal office needs to improve access to information, automation in one form or another may be useful, but computers may not yet be needed. Although the old saw, "If it ain't broke, don't fix it," is true, the caveat with legal research in the future is going to be that some form of electronic access to legal resources is an important consideration. The key here is to select the most cost-efficient medium for whatever information is relevant for a particular practice.¹⁶ If lawyers don't have access to the new technologies, they will not remain com-

petitive.¹⁷

Finally, don't let rapidly growing, fast-changing technology make you think you need to upgrade your computer if you are already able to access a national network. If your hardware and software are currently doing the job, they are not obsolete.¹⁸

Minimum Requirements for Conducting On-line Legal Research

With proper consultation, good advice, careful planning, and investigation, total initial expenses for the following items, *e.g.*, IBM-compatible hardware, could cost less than \$5,000. However, the use of a CD ROM player with WESTLAW searching in the area of bankruptcy, for example, would require equipment more powerful and expensive.

1. Computer.

Hardware. (Both Mead Data Central [LEXIS] and West Publishing Company [WESTLAW] have a list

of compatible computer hardware which will be furnished on request.)

- Computer terminal (minimum of 256K random access memory [RAM], a double-sided floppy disk drive, and asynchronous adaptor or serial communications port).
- Video monitor (color optional).
- Keyboard.
- 2400 baud Hayes-compatible modem (can be internal on newer computers).

Software. Westmate or LEXIS (ordered directly from vendors).

Printer, preferably with letter quality capabilities.

Phone line, preferably dedicated.

2. Telefacsimile machine (Group III-compatible).
3. CD ROM drive. (Optional. Preferred model: Toshiba model XM-3201A. Consult vendor for specific hardware and other requirements.)

Selected Phone List of Database Vendors

1. Legal vendors.

— Mead Data Central (LEXIS): National: (800) 227-4908; Northwest regional account representatives: (206) 621-1761 (Seattle); Law schools and government accounts: Mary Frizzell; Law firms: Jim Corbett and Dan Kennedy.

— West Publishing Company (WESTLAW): National: (800) WESTLAW; Northwest regional account representatives: Academic, Barbara Rost (503) 245-5201 (Portland); Law firms and government accounts, Chris Bawn (206) 628-6435 (Seattle).

2. Business vendors.

— Dialog Information Services (Dialog): (800) 334-2564.

— BRS: (800) 468-0908. Both BRS and Dialog are information brokers.

— VU/TEXT: (800) 323-2940. Source for access to smaller, significant regional newspapers.

— Dow Jones News/Retrieval: (800) 522-3567.

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Selected Bibliography of Recommended Articles and Where They Are Available

S. Harvey, "LaserCat a Success in Law Library," 8 *WLN Participant*, No. 5 at 4-6, July 1989. Washington State Library, AJ-11, Olympia, WA 98504-0111. Attention: David Wasser, Ed. (206) 459-6518.

"On-line Information: The Competitive Edge," 75 *A.B.A.J.* 81-97 (June 1989). 750 N. Lake Shore Drive, Chicago, IL 60611. (312) 988-5000. This is a good, but brief, overview of the subject which also includes an excellent list of resources on law office research using computers.

The Law Firm Library of the Future, Special Order Department, American Lawyer Newspapers Group, Inc., 600 Third Avenue, New York, NY 10016. Inquiries: Robert J. Grignon. (212) 973-2800.

Summary Remarks

Although computer literacy is important, the crucial factor for attorneys is to become information literate so that we remain aware of the way in which we can use technology to our benefit. Technology is in the process of giving lawyers the opportunity to quickly reach more and more information resources.

Librarians have been called the original information experts.¹⁰ Microcomputers and newer technologies now provide every legal researcher with the horsepower and opportunity to develop a similar expertise in the expanding world of legal information. □

Footnotes

¹*Gardner v. Jacon*, 538 N.Y.S.2d 377, 379 (A.D. 3 Dept. 1989).

²*Wehr v. Burroughs Corp.*, 619 F.2d 276, 284 (1980).

³*United Nuclear Corp. v. Cannon*, 564 F. Supp. 581, 591-592 (1983).

⁴*Id.* at 592.

⁵*Falzerano v. Collier*, 535 F. Supp. 800, 803 (1982).

⁶Horne, *The Law Firm Library of the Future. Technology Takes Research Beyond the Bookshelves*, American Lawyer Newspapers Group, Dec. 1988, at 18, col. 2.

⁷B. Taylor, E. Mann & R. Monro, *The Twenty-First Century, Technology's Impact on Academic Research and Law Libraries*, 80 (1988).

⁸Charles, "Byte-size Filing. Lawyers Let PC Keyboards do the Walking to Federal Court," 75 *A.B.A.J.* 30 (Jul. 1989).

⁹10 *Admin. Notes. Newsletter of the Federal Depository Library Program*, No. 3, at 9. Feb. 1989.

¹⁰M. Price, "Setting the Legal Information Agenda for the Year 2000: Preliminary

Report on the National Legal Resources Committee," 81 *Law Lib. J.* 349, 356 (1989).

¹¹B. Taylor, *supra* note 7 at 71-72.

¹²L. Carrico, "Out of School. But Back to the Books," *Texas Lawyer*, May 22, 1989, § 3 at 4, col. 1.

¹³L. Johnson, "The Joy of Fax," 75 *A.B.A.J.* 102 (Jul. 1989).

¹⁴*The Law Firm Library of the Future*, *supra* at 24-26.

¹⁵*Id.* at 6.

¹⁶*Id.* at 20.

¹⁷*Id.*

¹⁸4 *Journal of Business*, Jul. 13, 1989, No. 13 at 19, col. 1.

¹⁹P. Karon, "Librarians are the Original Information Experts," 4 *P.C. Week*, No. 22 at 81, (Jun. 2, 1987).

James Murray is the director of the Gonzaga University School of Law Library. He is an assistant professor in the legal writing program. He received his J.D. from Gonzaga and his Master of Law Librarianship from the University of Washington.

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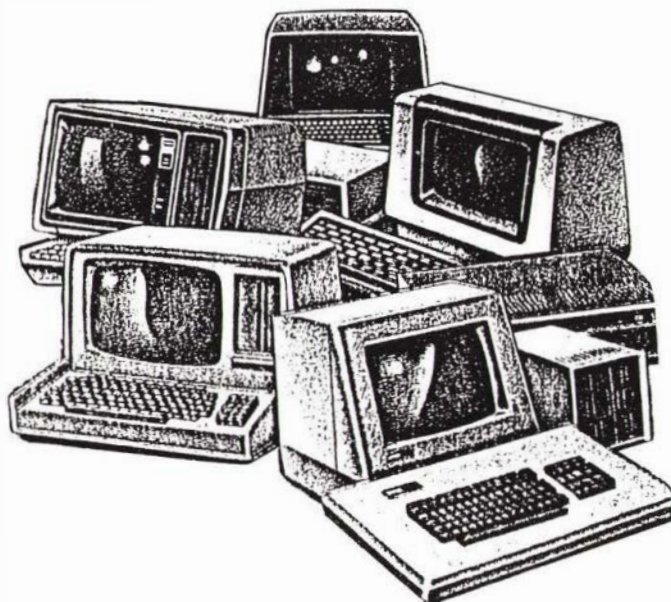
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Computerized Legal Research In Washington



by **Melissa Landers**

In 1989, approximately 500 future attorneys will graduate from the three law schools in our state. One common trait among them is training in one or both of the two major Computer Assisted Legal Research systems (LEXIS and WESTLAW). This article summarizes the training programs in LEXIS and WESTLAW at Gonzaga, University of Puget Sound and University of Washington. It explores what's currently available on computer research systems that might be of interest to a Washington attorney and, finally, describes and lists the available public access terminals and low-cost membership plans available in this state.

This article won't address search techniques or cost analysis. The attached bibliography lists articles making claims as to which system is "the best" and those describing how much it costs for an attorney to subscribe to one of the systems. In addition, the University of Washington School of Law sponsors an annual CLE on computerized legal research. This CLE covers current costs, database enhancements, search logic and a comparison to manual research.

All three schools subscribe to LEXIS and WESTLAW through educational contracts, which are great deals for law schools. For a very low monthly fee,

schools receive virtually unlimited access to the databases. The only guideline is that the research must be "law school-related." This prohibits students from using the computer for any clerking jobs or use by any attorney library patron.

Three main groups use the systems in any law school: Faculty use them (many from their own offices or homes) in preparing for class lectures and in doing research for publications. Librarians use them in answering reference questions for students and faculty. Finally the students use them in preparing for moot court competitions, doing Law Review research, finding and researching topics for seminar papers, and preparing for classes.

Database training of law students has changed rapidly in the last five years. As law schools began subscribing to the various databases, the training was optional and up to the student. In a formal structure, it was often presented at the end of the year as a kind of afterthought to the legal research process. Most schools nationwide are now beginning to integrate Computer Assisted Legal Research (CALR) into the curriculum early on. After teaching students the concept of Shepard's, why make them rely on using it via the books only? It is much faster and more complete to Shepardize on line, and the students

themselves realize this. Why not show them how to be cost-effective immediately? On the other hand, some research projects are not easily handled on CALR. Students learn to make the distinction more quickly when they are introduced to both manual and electronic methods.

Schools do vary on how CALR is taught. Reasons for this range from the faculty's perception of CALR's importance in the curriculum to the physical number of training computers available. Also, most school's programs change year to year to take advantage of new training techniques and student feedback.

The University of Washington conducts training for all first-year students as a part of the required Basic Legal Skills class. Sessions cover both LEXIS and WESTLAW in a 2.5-hour class. Typically, an overview lecture and full-screen demonstration is presented on the systems and their capabilities. Handouts and training manuals are passed out in advance of individual sessions. Students then sign up in groups of 10 for the hands-on class, which is conducted in the law school lab, which contains IBM PS/02 Model 50 computers. The reference librarians do all the training using a sample problem which the students have already researched using manual sources. It is run on both systems so that

the students can compare search strategies and results. Students may then use the systems any time they are available and are encouraged to attend follow-up classes that are held throughout the rest of their law school careers.

During the 1988-1989 school year, the University of Puget Sound trained all first-year students on LEXIS using the vendor's custom equipment. Classes

were taught by both reference librarians and the legal writing faculty. Instructors made use of an earlier research assignment by structuring a computer problem based on that assignment. Students learned WESTLAW through a simulated computer program. Tentatively in 1989-1990, the school plans to begin teaching separate classes in LEXIS and WESTLAW during the second year of

the two-year legal research and writing program. As a separate option, first-year students will be trained in the spring if they plan to clerk for a firm. Review classes will be held throughout the year for students to continue enhancing their skills.

Gonzaga now requires that both LEXIS and WESTLAW be learned in the second year as part of the legal research and writing class, although it is available for first-year students if they so desire. Separate classes are held on each system consecutively in the Gonzaga computer lab using the vendor's custom equipment; they are taught by both vendor representatives and library reader service staff. Each hour-long class consists of lecture and a demonstration of the different features available on the database. At the end of the training sessions, students receive a WESTLAW/LEXIS proficiency certificate.

All three courses point out the overlapping features on both systems as well as the fact that using the systems can often substitute for the primary case reporters and other legal materials. Below is a chart illustrating certain materials of interest to Washington attorneys available on four different computer systems. LEXIS and WESTLAW are the major databases, but VERALEX, a database produced by Bancroft-Whitney is a system now used in many smaller firms. VERALEX is the same database as LEXIS, but the prices are lower than those for LEXIS for certain search capabilities. The Digital Law Library is a not-for-profit organization which has been able to obtain computer tapes of public domain material from Washington. These tapes are formatted into floppy disks, which can be keyword-searched.

Many attorneys in this state are in solo or small-firm practice and complain they can't compete with the big firms in terms of subscribing to these databases. However, public access legal research terminals are available throughout Washington for WESTLAW, allowing attorneys to use the systems only when they need to and to avoid the monthly subscription fee. Another benefit of these terminals is the fact that there are trained operators to conduct the search; thus, the attorneys don't have to constantly keep up to speed on search strategy. Charges are generally billed to the attorney.

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SELECTED COMPUTERIZED LEGAL RESEARCH SOURCES

TITLE	LEXIS	WESTLAW	VERALEX	WASH.DIG.LIB.
RCW	yes	Title 48 only	yes	yes
RCWA	no	late '89	no	no
Wash. Leg. Service	no	yes 1988+	no	no
Court Rules (part of RCW)	yes	no	yes	yes
Shepards	yes	yes	yes	no
ALR 2d - ALR Fed	yes	no	yes	no
Wash.	yes 1938+	yes 1899+	yes 1938+	predicted
Wash.2d	yes	yes	yes	predicted
Wash.App.	yes	yes	yes	predicted
WAC	no	no	no	predicted
Wash. AG Ops.	yes 1977+	yes 1977+	yes 1977+	no
Wash. Bd. Tax App.	yes 1980+	no	yes	no
Wash. Util. Tran. Comm.	yes 1974	no	yes	no
Wash. Dept. of Lic. Business	yes 1974+	no	yes 1974+	no
Wash. Poll. Cont. Bd.	no	yes 1985+	no	no
USCS	yes	no	yes	no
USCA	no	yes	no	no
Legal Resource Index	yes	yes	yes	no
Index to Legal Periodicals	yes	yes	yes	no
Current Index to Legal Periodicals	no	yes	no	no
Wash. L.R.	yes 1982+	yes 1980+	yes 1982+	no
Gonz. L.R.	no	selective 1982+	no	no
UPS L.R.	no	selective 1982+	no	no

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ney at the end of the month. Terminals are located in:

Bellevue — The Eastside Law and Tax Library, a subscription-based library, has a WESTLAW terminal for members only, who may use the terminal themselves or have the librarian run the search at a cost of \$5 per minute for on-line time. Phone requests are taken from members. Call (206) 646-3464 for subscriber information.

Seattle — Sponsored by the Seattle-King County Bar Association Young Lawyers Division. The terminal is located in the King County Law Library. It is operated by an attorney, and open for phone and walk-in requests between 8 a.m. to noon and from 1 - 5 p.m. Attorneys from around the state are welcome to use this service. Typical charges range from \$8 to \$12 per minute, depending on the database searched. Call (206) 296-

0947 for price quotes.

Spokane — Sponsored by the Spokane County Law Library. The librarian will conduct searches for any patron in the state. They do accept both walk-in and phone requests and charge \$6 per minute of on-line search time. Hours are Monday through Friday, 8 a.m. to 3 p.m. Call (509) 456-3680 for information.

Spokane — A terminal is available at the Gonzaga Law Library, but attorneys must use it themselves. Registering in advance as a subscriber is required, and there is a minimum charge of approximately \$50 per search. Call (509) 328-4220, ext. 3753 to arrange for registration.

Tacoma — Sponsored by the Pierce County Bar Association. Searches are restricted to members of the Pierce County bar. Attorneys may do the searches themselves or have an on-staff consultant perform the search for an additional \$15 an hour. It is located in the Pierce County Law Library; walk-ins and phone requests are accepted. WESTLAW may be accessed all hours the library is open, which includes evening and weekend hours. Call (206) 591-7494 for more information.

Group membership plans have recently been developed to allow smaller firms in-office access to LEXIS and WESTLAW. A sponsoring organization, such as a bar association, handles the billing and registering of new members. Monthly fees are substantially less than a regular commercial contract, although search charges are a little bit more. These plans are recommended for attorneys who use the systems just a few times a month.

The LEXIS Group Membership Plan, sponsored by the Seattle-King County Bar Association Young Lawyers Division, is available to any attorney or firm in Washington. As of this writing, over 50 firms statewide belong to this plan. Call (206) 296-0947 for subscription information.

ABANET is a communication system that allows access to both LEXIS and WESTLAW group membership plans. Users who are not ABA members must pay \$150 annually to join ABANET. ABA members pay a one-time charge of \$50. The LEXIS plan involves no monthly minimum and has the same price structure as the Seattle-King

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County group plan. The WESTLAW plan costs \$4.50 per minute with a 10-minute minimum use fee per month. For more information on accessing these systems through ABANET call (800) 322-4638.

With the advent of so much legal material available on CALR, plus its ready availability to nonsubscribers, small firms are now able to achieve more parity in research capabilities with large firms. Today's students are conversant with all aspects of computers, and law school curricula support their training in computerized legal research. The practicing bar should be aware that future attorneys are trained to use this enhancement in legal research and that law schools are trying to place emphasis on distinguishing between something which should be researched in books and that via computers. □

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(*Melissa Landers is the Assistant Librarian for Public Services in the Gallagher Law Library of the University of Washington in Seattle.*)



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Beyond the Using Law

by Annetta Lawson

The question:

- An INS policy decision
- An AMA Judicial Council opinion
- Cases interpreting a section of the WAC
- An unpublished ALR annotation
- An Executive Order
- The parallel citation for IER 1145
- The current market value of Suffolk sheep
- The published activities of the SAB
- The harmonized code

The answer:

— A law librarian

Have you read the Mr. Tutt stories by Arthur Train? Tutt was a wily old country lawyer who always outfoxed his opponent. He would take his feet off his desk, swing around to his bookshelves, and pull down the winning case. Hold that thought while you picture the law office of today: Pink while-you-were-outs, yellow post-its, piles of files, advance sheets, newsletters, weekly alerts, monthly updates, current supplements, mountains of information that the lawyer has to cope with in order to keep up to date. And that is only the beginning. Today's lawyer is faced with complex cases demanding expertise in areas outside the law, with the necessity of being savvy in business and with the uneasy suspicion that the human mind is obsolete. A recent computer ad used the slogan, "Knowledge is power." In Tutt's day that may have been true, but today

knowledge is out of control.

Often the law librarian is the most cost-effective way of linking the practitioner with the needed information. However, many practitioners fail to take advantage of this valuable resource. The purposes of this article are to acquaint you with the expanded role of the law librarian today and to suggest ways you may benefit from the librarian's expertise.

Traditionally, law librarians have been trained in the acquisition and organization of information. This is still true, but what does it mean to acquire and organize information in 1989? It is the meanings of "acquisition" and "organization," maybe even the meaning of "information," that have changed in recent years. The skills of law librarians have changed accordingly.

The law librarian of 25 years ago was responsible for purchasing and cataloguing printed materials so that information would be readily available when needed. These jobs are still important, especially with the volume of materials being published. A significant portion of a firm's budget may be devoted to its library collection. Haphazard purchasing and cataloguing could result in considerable waste. However, limiting the law librarian's role to that of "keeper of the books" is an even greater waste.

The law librarian was, and is, trained as a researcher, one who has always had the know-how for finding his or her way around in a variety of printed materials.

A researcher today must also be familiar with the variety of formats in which information appears. Where and in what format does it exist? In microfiche, ultrafiche, on CD ROM, or in a computer database? Can you get a copy? How long will it take? How much will it cost? The lowly telephone is one of the most frequently used research tools today. The complexity of finding the person who knows seems to increase daily. It may be some bird in D.C. whose sole interface with human speech is, "Yo," but it may take 15 phone calls to agency offices across the U.S. to locate him.

Librarians know about printed materials, computers and other information formats. They know how to use the phone as a research tool. Best of all, they know about other librarians. When, as happens all too frequently, the question is beyond my powers, I do not hesitate to set the drums beating in the jungle. More often than not, the answer comes through.

Following are three illustrations of how the skills of a law librarian can benefit the practitioner. These are job descriptions of real librarians in real firms, chosen because of their creative use of the resources which are available to all firms, but not always so cleverly recognized and employed.

Law Librarian As Resource Person

Firm A is a "specialty" firm with 15 attorneys. It is widely recognized in its

Books: Librarians



Reference Reading Room, Gonzaga Law School Library

area of expertise. There are two librarians who are recognized by the firm as being very knowledgeable in that area. Their responsibilities include legal research, writing memoranda, assisting in preparation of continuing legal education materials, and editing the briefs and manuscripts produced by the firm. They have helped the firm develop its own citation style. Other duties of the librarians include keeping track of legal developments in the area of expertise and routing timely materials to the attorneys. The librarians organize the briefs and other work products of the firm so that they can be readily retrieved by future researchers and monitor library acquisitions to assure a first-rate collection; they assist with training of summer and new associates.

Librarian As Researcher

Firm B has 300 attorneys and 12+ librarians, "+" because there may be more by the time this article is published. The library director says, "When I ask for a new librarian, the management committee says, 'Why don't you hire two?'" This generous attitude results from the fact that the firm's librarian/researchers generate revenue sufficient to produce a profit margin on the cost of all library staff. The library director is convinced, and has shown the firm, that librarians are ideal researchers. They use computer and printed materials to provide sophisticated research support to the attorneys. In addition to locating information, they organize it in reports and memos that facil-

itate its use by the attorneys. Says the library director, "Librarians know how to find the information more efficiently than anyone else. They can do things that nobody else in the firm can do."

Librarian As Information Manager

Firm C is a megafirm with more than 600 attorneys. The librarian whose job is described here is the director of information resources. Included in her department are the traditional library services of reference and research, as well as technical services such as cataloguing, collection maintenance, and clerical library tasks. Also in her department are the following:

- Records management, including conflicts checking and calendar and docket control
- Legal assistant training and assignments
- Litigation support, including database design and coding
- Communications, including all publications about the firm, public relations, and trial exhibits

While this is organization of information on a grand scale, the skills required are still those in which librarians are trained.

In summary, these firms have recognized that the librarian's function should go beyond the books to organization and evaluation of information in ways that are more responsive to the demands and the possibilities of today. As a result, these firms have been able to provide better support for the attorney, better

legal service for the client, and even a profit margin on the library.

The sole practitioner or small firm may be thinking, "This is all very well for the megafirm, but what about me? How do I compete in this information business?" You might consider the following possibilities:

- A librarian/researcher on your staff
- Employment of a legal research service
- A shared librarian
- A shared or membership library complete with librarian and full library services

A Good Deal

Everyone is telling us that law is a business these days, and that there is growing client awareness of how lawyers do business. An information specialist, aka law librarian, can help you do business better. And yes, it may cost some money. Information is a business, too. CCH did not make the Fortune 500 Galaxy of Stars by giving the stuff away. Neither are the on-line services shy about their charges. But being the wily lawyer today includes knowing a good deal when you see it. Law librarians are a good deal. □

(Annetta Lawson is Librarian for Ferguson & Burdell in Seattle, and for the Eastside Law & Tax Library in Bellevue. A member of the WSBA, she holds her B.A. from Randolph Macon College, M.Ed. from Temple University, J.D. from the University of Puget Sound, and M.L.S. from the University of Washington.)



Becoming a Peer Counselor

LAP is looking for new peer counselors to join its training program beginning October 1989. Any lawyer who would like to develop counseling skills and can invest some personal energy in assisting troubled colleagues, please call LAP for additional information: (206) 448-0605.

There are many motivations for this

type of commitment, and our peer counselors comprise a diverse group. Some Washington lawyers still incorrectly believe that the LAP program, including the counselors, is limited to those who are recovering or would like to recover from an addiction. In fact, many peer counselors have volunteered only because they want to assist other lawyers.

One such lawyer heard about the op-

portunity while working on another Bar Association committee. He decided that peer counseling would be a way to assist the profession. Looking back on the decision, he also recognized a more grandiose motivation: "I became a peer counselor because I thought I was perfect . . . I would be LAP's gift to clients."

Nearly three years later, he recognizes that perfection is an illusion and that the earlier drive, while in part a desire to share his best, was also a repeat of his familial pattern of rigidity and the assumption of superiority. Along the way, after hours of reflection, regular training meetings, skill development and working with seriously impaired lawyers, he has become a gifted listener.

Peer counseling is an integral part of the LAP. A hundred and ten men and women from Spokane to Olympia provide a safe, confidential opportunity for lawyers to be heard. Lawyers assisting other lawyers: a notion that is so important because they often have trouble trusting or respecting anyone else, including family.

The impaired clients who are matched with peer counselors have a wide range of problems including sexual abuse, eating disorders, anger management, stress, substance abuse, seasonal affective disorders and many others. LAP staff assign peer counselors partly on the basis of their comfort with the client needs. Professional consultation is readily available.

After completing a six-hour training seminar, peer counselors can expect to attend an ongoing monthly or quarterly two-hour training session. Training topics include gerontology, depression, suicide, chemical dependency and developing counseling skills.

Spending whatever time is necessary developing a relationship with a client may require meeting with the client for an hour or two a week, for as long as a year or two. Nonjudgmental listening builds the trust and honesty that sustains such a relationship.

The satisfaction of participating in this particular Bar activity is just one of many rewards LAP volunteers experience. Peer counseling has also affected the lawyer's practice. "I see my law clients in their context and as people, rather than just as objective clients. I'm more at ease."

University of Washington School of Law
Continuing Education

FALL 1989 SCHEDULE

Date	Course #	Location	Title
9/23-24	8912	School of Law	THIRD ANNUAL WESTERN REGIONAL INDIAN LAW SYMPOSIUM 9:00-5:00 - 13.00 CLE credits - \$175
10/7	8913	School of Law	DOING BUSINESS UNDER THE CANADA-U.S. FREE TRADE AGREEMENT 9:00-4:30 - 6.50 CLE credits - \$135
10/12-13	8914	Washington Athletic Club	SEVENTH ANNUAL NATIONAL FISHERY LAW SYMPOSIUM 9:00-5:00 - 10.00 CLE credits - \$275
10/21	8915	School of Law	DEPOSITIONS - TACTICS, STRATEGIES AND PROBLEMS 9:00-4:30 - 6.50 CLE credits - \$135
10/28	8916	School of Law	ANNUAL COMMERCIAL LAW INSTITUTE 9:00-4:30 - 6.50 CLE credits - \$135
11/3	8917	Washington Athletic Club	EIGHTH ANNUAL FEDERAL TAX CONFERENCE 9:00-4:30 - 6.50 CLE credits - \$135
11/10	8918-A	School of Law	CURRENT ISSUES IN MEDICAL NEGLIGENCE 1:00-5:00 - 4.00 CLE credits - \$85
11/11	8918-B	School of Law	SUCCESSFUL SOLO AND SMALL FIRM PRACTICE 8:30-12:30 - 4.00 CLE credits - \$85
11/17	8919	Washington Athletic Club	PROFESSIONAL RESPONSIBILITY 9:00-4:30 - 6.50 CLE credits - \$135
12/2	8920	School of Law	PLEA BARGAINING (co-sponsored by the WSBA) 9:00-5:00 - 7.00 CLE credits - \$100
12/7-8	8921	Sheraton Hotel	SIXTH ANNUAL HAZARDOUS WASTE LAW AND MANAGEMENT CONFERENCE 9:00-5:00 - 13.00 CLE credits - \$275
12/16	8922	School of Law	BUSINESS AND BIOGRAPHICAL INFORMATION 9:00-12:00 - 3.00 CLE credits - \$75

For information, or registration by phone, call 543-0059.

Registration Form

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Amount enclosed _____
Bill my firm _____



ANNOUNCEMENT. State Supreme Court Dedication Ceremonies, scheduled for September 25, have been postponed.

September 1989

11 WSBA Board of Governors' Meeting, Whistler, B.C. *For information:* (206) 448-0441.

10-15 WSBA 100th Annual Meeting and Convention, Whistler, B.C. *Sponsored by:* WSBA. *For information:* (206) 448-0441.

Events:

- Whitewater canoe and kayak enthusiasts planning to attend the Convention are invited to contact attorney Sean Sheehan at (206) 684-8223 (office) or (206) 632-1301 (home) to make plans for some river time in the Whistler area.

- The first annual roast (and usual annual meeting) of the WSBA Creditor/Debtor Section will be held September 14 in the Delta Mountain Inn's Cheakamus Room from 5 p.m. to 7:30 p.m. Dillon Jackson will be the victim of honor.

22 Small Business Law, Spokane. Also presented September 29 in Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

29 Edmonds Community College Introduction to Law Office Management Course, running until October 14. *For information:* Linda Dawson, (206) 771-1684.

October 1989

6 Trial Advocacy, Spokane. Also presented October 13 in Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

6 Corporate Counsel Institute, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

12 Liability of Architects and Engineers, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

16-18 Law Office Management Regional Institute, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

19-20 34th Annual Estate Planning Seminar, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

19-20 1990 Affirmative Action Briefing, Seattle. *Sponsored by:* National Employment Law Institute. *For information:* (415) 924-3844.

25-26 Creditor/Debtor Workshop, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

November 1989

3 Consumer Protection, Antitrust and Unfair Business Practices Conference, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

4 Family Law, Yakima. Also presented at Sea-Tac Airport November 18. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

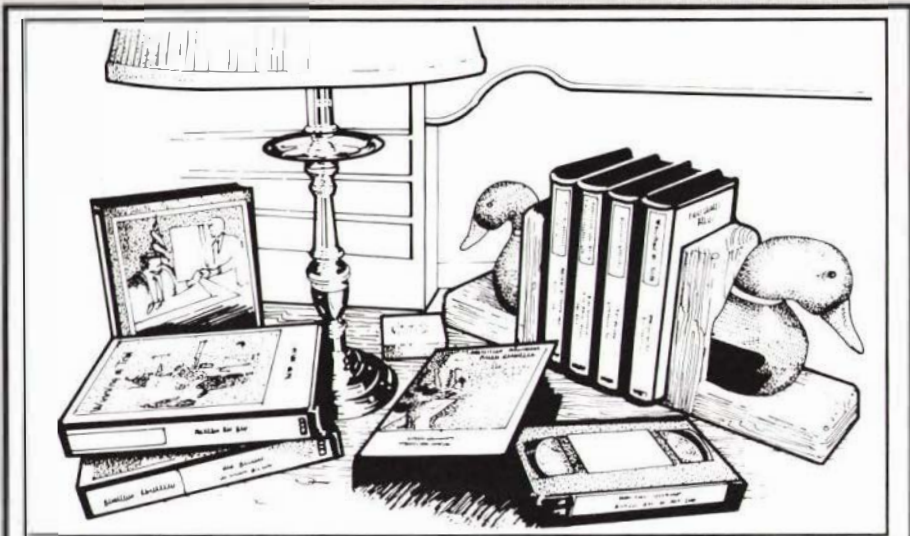
10 WSBA/WSCPA, Seattle. *Sponsored by:* WSBA and Washington Society of Certified Public Accountants. *For information:* (206) 448-0433.

16-18 Northwest Real Estate Symposium, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

December 1989

28 Best of CLE, Seattle. *Sponsored by:* WSBA. *For information:* (206) 448-0433.

(Calendar carries information on events of interest to members of the Association. Please send event notices to Lindsay Thompson, Editor, the *Bar News*, 7414 N.E. Hazel Dell Avenue, Vancouver, WA 98665. Deadline is the 25th of each month for the second issue following.)



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THE BOARD'S WORK

Union, Washington: August 18-19, 1989

Present: President Bracelin and all the Governors; President-elect Vander Stoep and Governors-elect Lem Howell, John Schultz and John Slater. Governor Ron Gould was absent on Saturday. *Also present:* C.C. Bridgewater (Prosecuting Attorneys' Assn.); Harold Clarke (Young Lawyers Division); Peter Greenfield (SKCBA Trustees); Frank H. Johnson (Legal Foundation of Washington); Mike Larson (SKCBA Young Lawyers); John J. Michalik (WSBA Executive Director); Judge Robert Peterson (Superior Court Judges' Assn.); Judge Daniel Phillips (Magistrates' Assn.); Judge Edward Reed (Court of Appeals); and Lindsay Thompson (*Bar News* Editor/Clark County Bar Assn. Trustees).

This month the Governors gathered at Union, where the "Good Ol' Days" celebration was in full swing. A relatively light agenda began with an executive session Friday morning.

Of public matters, the first item was a proposal from the WSBA's and Seattle-King County Bar Association's International Law sections to allow "foreign legal consultants" to work in Washington.

Such a rule is necessary to get Washington lawyers access to foreign nations, said attorney Charles Routh. That's because most foreign countries allowing outside attorneys to practice do so on a reciprocal basis.

"More Washington attorneys work in Tokyo than from any other state," Routh told the Governors. "The *Bar News* is probably the only journal of its kind in the country to carry regular news about overseas attorneys."

The proposed limited practice rule would authorize law-

yers who have practiced in their home nations for at least five of the past seven years to apply for admission to practice in Washington on a limited basis. The scope of practice for such persons would be to serve as advisors on the law of their home jurisdictions. It would require that such practitioners register with the Bar Association and be subject to the disciplinary processes of the Association.

After some questions and a minor amendment to the text, on a motion by Governor Ron Gould the Board approved the new rule, to be denominated APR 14.

Never Mind: Last month the Board decided, more or less, to start administering disciplinary reprimands in public rather than executive session. To this meeting came a proposed revision of RLD 5.5 to that effect. But Governor Mike Carlson said he'd had second thoughts about public reprimands, and moved to reconsider the Board's previous action.

A roundelay of position statements followed. Governor Steve DeForest felt the Board "should strive to keep to an absolute minimum what we do in executive session. It invites suspicion if people don't know what is going on."

Governor Ed Shea thought there was no need for a change in the first place. "No one has complained about the way we have handled reprimands," he said. "There is no indication anyone is unhappy with the system as it stands."

Governor Don Curran agreed with DeForest. "We should restrict very narrowly the matters we discuss in executive session." Several others thought it would be a good thing for others to be able to see the culmination of some of the

WASHINGTON ADMINISTRATIVE CODE 1987-1988 SUPPLEMENT NOW AVAILABLE THE OFFICIAL CODE OF STATE AGENCY RULES

The 1987-1988 Supplement to the Washington Administrative Code, incorporating all changes in state agency rules filed in those years, is now available from the state Code Reviser. The 1987-1988 Supplement consists of 3,000 pages in three volumes of the same format as the 1986 edition of the WAC.

The Supplement contains about 8,000 sections from more than 100 rule-making agencies. Half of these sections are new to this publication, and have not previously been available in codified form.

The price of the 1987-1988 WAC Supplement is \$80, 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 \$86.24 (tax included, no shipping charged in U.S.) to:

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Olympia, WA 98504

Association's disciplinary process take place; others thought it would detract from the effectiveness of a reprimand to have it before a larger group of observers.

Governor Carlson spoke for the latter view. He felt the solemnity of the occasion of a private reprimand, the particulars of which he did not elaborate, would be undermined by having the Board's observers scattered around the room, drinking coffee, talking, eating sticky buns and the like, and dressed informally. In the end, the Governors decided to keep reprimands private, 6-4.

A Thousand Here, A Thousand There: The Board went on to deal with some fine-tuning of the 1989-1990 budget. The MENTOR program, which helps run law-related education programs in the public schools, came in for some scrutiny for the cost of an annual workshop and banquet it puts on for participating teachers. The Board's Budget Committee reviewed the item and recommended a reduction in the MENTOR budget of \$1,124. Then the Committee passed around a supplemental report recommending an additional \$2,500 for the Young Lawyers Division, restoring part of what was cut from their budget the month before. The MENTOR amendment passed 7-2; the YLD addition unanimously.

But Is This Semicolon Really Necessary? Kennewick lawyer Joseph Erickson, who's been pushing the creation of a new General Practice Section within the Association, appeared before the Board again this month. This time he had drafts of the various documents needed to formally establish the Section as a going concern. The Board, which has been reviewing the Section's plans very closely, continued to do so.

This time they authorized amendment of the Association bylaws to create the Section, approved its bylaws, and okayed a first-year budget, but not without a lengthy series of queries, criticisms and amendments. Several senior Board members expressed particular concern about the "softness" of the Section's second-year budget estimates. Once you start a new program, they warned the Board — especially the incoming members — you have to keep paying the bills, even if they are substantial overruns of estimates.

"Remember 'Today's Constitution and You'", one said, recalling how that public education project had gone from a \$30,000 initial commitment to an eventual \$100,000 cost several years ago.

But Governor Jeff Tolman pointed out that the sections, when created, are expected to run a deficit for a year or two until they build up enough membership to support their operations through dues payments. "This section's projections are within normal limits; let's let them run with their ideas," he said. And in the end, that is what the Board did.

Law-Related Education: Spokane lawyer Pam DeRusha appeared before the Board with a "codification" of the Goals for the Committee, who she said had felt at sea over the past few years. The problem has been that it keeps coming up with program ideas that the Board listens to with interest, praises, and then declines to fund because money is short. The Committee members felt a set of articulated goals might help: if the Governors approved them, the goals would serve as guidance for the Committee in planning programs.

Good work, said the Board, but it still doesn't mean we're

HOW WOULD YOU DECIDE THIS CASE (Case Number Two)

The Plaintiff retained an attorney to represent him in a bodily injury action as a result of injuries sustained while making a vehicle pickup in an adjacent state.

The attorney assigned the file to an associate in his law firm. The associate brought suit in Federal Court in the plaintiff's resident state against the out of state vehicle owner.

Sound familiar? Read on.

The defendant asserted lack of personal jurisdiction in its answers. After the statute of limitations had expired, the defendant moved to dismiss the suit for lack of jurisdiction.

The Plaintiff brings suit against the attorney for failing to commence suit in the proper jurisdiction and within the statute of limitations.

How do you think the court found?

Decision: The vehicle owner's motion for dismissal was granted. In the separate action against the attorney, the court found in favor of the Plaintiff and substantial damages were awarded. Fortunately, the law firm was insured and a professional liability claim was subsequently paid.

Could this loss have been avoided?

Neither attorney nor any partner reviewed the file until **after** the plaintiff made inquiries regarding the suit's dismissal. The obvious method of avoiding this situation is to supervise the work of all associates in your office. Another method in avoiding a problem is the testing of affirmative defenses regarding service or jurisdiction prior to the expiration of the statute of limitations. The use of dual docket systems with cross checking assists in timely response to statute deadlines. In addition, since suit was brought in Federal Court, the attorney could have sought a transfer of the action to an appropriate Federal Court in the adjacent state. The attorney failed to do this in his opposition papers or to seek leave to re-argue this point after the judge granted defendant's motion.

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going to fund everything you bring us. The goals were intended to coordinate the sometimes far-flung law-related education efforts of the Association, and bring the Committee into a centralizing and evaluating role so that those funds that are available would end up going to the best programs, not just the first up to the trough.

Governor Julie Weston was particularly reluctant to have the Board adopt or approve the goals, fearing to do so would be taken as an implicit funding commitment. The Board noted that there was a little money in the contingency fund which had been put there with LRE in mind, so all was not lost. The Board approved the goals 8-1, Governor Weston opposed.

Rules, Rules, Rules: Court Rules & Procedures Committee chair Nick Wagner was back this month with another 250 pages of revisions to the court rules of the state. A series of Rules of Appellate Procedure amendments would adjust certain aspects of the administration and time schedules for appeals, and were approved, along with minor adjustments to other rules.

The most controversial amendment was to CR5, which would allow service by facsimile transmission ("fax") machines.

Governor Paul Stritmatter ticked off a series of reasons why the rule should not be amended: "It's too early for us to make a rule in this area. None of us have enough experience of this machine and concept," he said. "Outside the big city firms they are not in general use. Having to give out your fax number subjects you to junk transmissions. Worst of all, this

method of service, especially with long documents, means the recipient bears the cost. And there are no laws protecting these transmissions the way they do telephone conversations."

Governor Curran noted that the Board of Industrial Insurance Appeals had looked into using faxes more and had elected not to for reasons like those stated by Stritmatter.

On the other hand, said Governor Jim Turner, "there's fax service going on now. We need some rules to regulate it." Governor DeForest noted that there is pending legislation dealing with "junk fax" and that most firms with the machines put the numbers on their letterheads. Other Board members thought fax use far more widespread than one might suppose: Governor Tolman said "when they've got them in the two largest firms in Poulsbo, they've got them everywhere."

But two issues were rule-breakers for the opponents: that recipients would have to bear the transmission and paper costs, and sorting out who would verify receipt of service. Unable to arrive at a consensus on the proposed rule, the Board backed up. Governor Shea moved that the Board adopt "a rule" regarding fax transmission, which could be fleshed out if the motion passed. The vote on Shea's motion was 5-4 in favor; President Bracelin then chose to cast her vote against, creating a tie and killing the subject altogether.

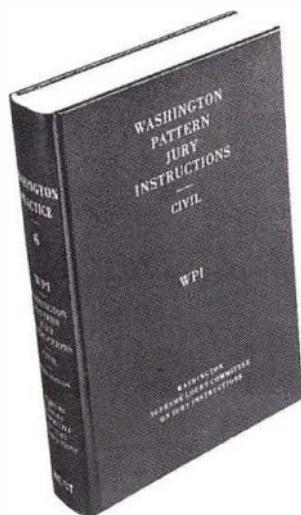
The Modem Is the Message: Pasco lawyer Ed Hiskes has been working for several years on a cheap, computerized access for lawyers to essentials like the RCWs and the Washington Reports (see, e.g., "Computerized Law Books," *Bar*

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News, December 1986, at 28: "The Future Is Here: Statutes Now Available On Floppy Disks," *Bar News*, November 1988, at 5). With Seattle lawyer Jeffrey Bodé, Hiskes has created the Washington Digital Library Foundation to aid in the development of floppy disk and CR-ROM disks assembling at little or no cost the laws, the case reports, and, perhaps, WSBA deskbooks.

Hiskes and Bodé demonstrated how they've computerized the RCWs, and put their program through an impressive series of demonstrations searching out particular sections of the state code.

Hiskes' goal is to make these tools available to all lawyers — "Small firms and the sole practitioner particularly" — who find subscribing to other services a financial drain or an impossibility. He says it can be done for a few dollars a disk. The Board was sufficiently impressed that they set up a committee of Governors to look into how the Association might participate in bringing such a program to fruition.

Wrap-up at Union: In other action, the Board:

- heard the last annual report from Committee of Bar Examiners chair Colonel F. Betz of Mount Vernon, who is leaving the Committee after 15 years of service. The Governors passed a resolution appreciating Betz's "devoted, dedicated and selfless service to the Bar, as a member, and most recently, as chair of the Board of Bar Examiners"; and

- heard a report from Governor Ed Shea and former President Bill Gates on the actions of the ABA House of Delegates this summer.

Next Meeting: Monday, September 11, 1989 at Whistler, B.C., during the Bar Association Convention. As always, the Board's meetings are open to the public.

— by **Lindsay Thompson**
Editor, Bar News

ANNOUNCEMENT! State Supreme Court Dedication Ceremonies, scheduled for September 25, have been postponed.

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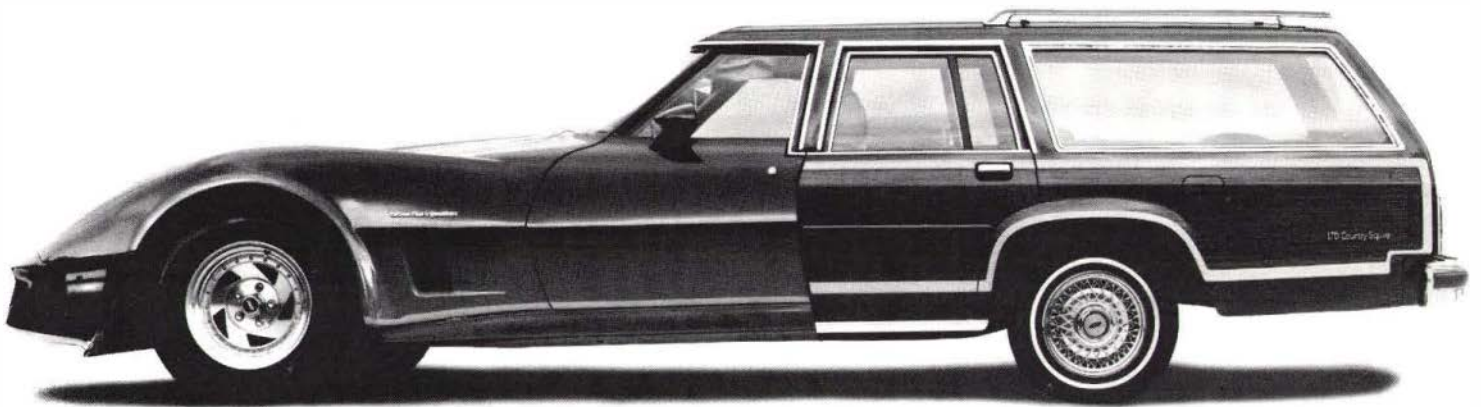
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Notices of Interest to Association Members

Disciplinary Notices

Suspended: Former Spokane attorney **Mark F. Bennett** (admitted 1977) was ordered suspended from the practice of law for two years effective August 24, 1988 by order of the Supreme Court dated May 11, 1989. The discipline was based on Bennett's conduct resulting in his felony conviction for violation of 18 USC section 1001. Specifically, Bennett was found to have "knowingly made a false statement concerning matter within the jurisdiction of a department or agency of the United States," in that in a statement to a U.S. Attorney he claimed to own three paintings when, in truth, he knew he did not. Bennett's reinstatement is conditioned upon his discharge from probation.

Disbarred: Lynnwood attorney **John T. Borst** (admitted 1973) was disbarred by the Supreme Court's order on June 6, 1989, following a disciplinary hearing, based on his settlement of a client's claim absent the client's authority, attempted misappropriation of funds, forgery of a client's name to a settlement check, failure to account for and maintain client funds in trust, and noncooperation in the Bar's disciplinary investigation.

Commission on Judicial Conduct Reprimand: Raymond attorney and former South District Court, Pacific County Judge **August F. Hahn** has been reprimanded by the Commission on Judicial Conduct pursuant to a stipulation dated July 3, 1989. Hahn stipulated that he made injudicious statements in open court while hearing three cases; improperly dismissed 25 criminal cases without giving appropriate notice or opportunity to be heard to the governmental body bringing the charges; and sat as a judge in 11 cases involving persons he had previously represented as an attorney. Hahn agreed not to seek or serve in any Washington judicial office without receiving a favorable recommendation from the Commission and approval of the Washington Supreme Court after filing a petition for reinstatement of eligibility pursuant to CJCR 20.

WSBA Election Results

The following members of the Association have been elected to the Board of Governors for three-year terms commencing in September 1989:

- **John Slater** of Bellingham, suc-

ceeding **Mike Carlson** in the Second District;

- **John Schultz** of Pasco, succeeding **Ed Shea** in the Fourth District; and

- **Lem Howell** of Seattle, succeeding **Julie Weston** in the Seventh District.

Public Notices

Goldmark Award Nominations Sought: The trustees of the Legal Foundation of Washington seek nominations for the Charles A. Goldmark Distinguished Service Award. The award honors the memory of Goldmark, who was chairman of the Legal Foundation at his death in 1986, and is presented each January to an individual, group or organization best realizing the goal of equal access to justice for all.

In assessing the candidates the trustees will recognize outstanding work accomplished outside the ordinary duties of the nominee's employment, that has a recognizable positive impact on residents of Washington state, and that furthers the goals and objectives of the Foundation.

Nominations, which may include supporting materials, should be sent by October 15, 1989 to Edward G. Holm, chair, Goldmark Award Committee, Legal Foundation of Washington, 600 Central Building, 810 Third Avenue, Seattle, WA 98104.

King County Recorder's Announcement: Property sales after July 1, 1989

will be subject to the excise tax rate of 1.53%.

Effective July 24, 1989 recording fees in King County increased to \$7 for the first page and \$1 for each additional page, pursuant to 1989 Session Laws, Chapter 204. UCC filings will be \$6 for standard forms and \$9 for nonstandard. Bulk sales and contract bonds will be \$7.

In re RCW 19.52.020(1): Legal Interest Rates

The average coupon equivalent yield from the first auction of 26-week treasury bills in August 1989 is 8.12%. The maximum allowable interest permissible for **September 1989** is therefore **12.12%**. Compilations of the average coupon equivalent yields from auctions of 26-week treasury bills appear on page 39 in the October 1987 *Bar News* for 1982-1984, and on page 37 of the June 1989 *Bar News* for 1984-1989.

Court Rule Review

The Court Rules and Procedures Committee is scheduled to review this fall the Superior Court Criminal Rules (CrR), the Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) and certain Rules of Appellate Procedure (RAP) that focus on criminal appeals. Please submit your comments c/o Steve Rosen, WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599.

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Arbitration

Counsel, Please Speak Toward The Floor Lamp

The United States and the Soviet Union are preparing to arbitrate a dispute over the construction of the American mission complex in Moscow and the alleged bugging of an office building which was to serve as the U.S. chancery, according to Mealy Publications' International Arbitration Report.

The United States is preparing its case and the next step will be for either party to notify the other over their choice of an arbitrator. The arbitration is to take place in Stockholm, Sweden under the United Nations' UNCITRAL arbitration rules.

In 1977, the American Arbitration Association, the USSR Chamber of Commerce and Industry, and the Stockholm Chamber of Commerce created an arbitration system facilitating trade transactions between parties from the U.S. and U.S.S.R.

The main feature of the arrangement is a model arbitration clause which corporations in the United States and Soviet foreign trade organizations can, when they mutually choose, refer to in their contracts. Known as the "Optional Clause for Use in Contracts in USA/USSR Trade," it provides for arbitration to take place in Sweden, a neutral site. The Stockholm Chamber of Commerce is authorized under the clause to appoint the presiding arbitrator from a panel, jointly maintained by the American Arbitration Association and the USSR Chamber of Commerce and Industry.

Michael Hoellering, General Counsel of the American Arbitration Association, comments, "Resort to arbitration by the U.S. and U.S.S.R. in this significant case underscores the importance of institutional arrangements which facilitate effective, peaceful, and impartial dispute resolution at a neutral site."

In the case of the Moscow Mission dispute, under the terms of the contract construction of the mission began in 1979 and was to be completed by 1983. However, the project continued beyond the 1983 deadline; in 1985 the United States suspended the Soviets' work, and a year later, terminated the contract in connection with the office building which it claimed was bugged. During investigations of the alleged bugging,

the Reagan administration assessed the damages and recommended the building be razed to the ground floor and rebuilt. The Bush administration is said to be taking a second look at the situation.

The United States has filed three claims against the Soviets: project delays and cost overruns totaling \$27 million; defective workmanship around the complex totaling \$2 million; and intentional defects in the office building.

The contract between the United States and the Soviets contains a dispute clause which carries a two-phase dispute resolution process. The first stage is a claims settlement process under which the parties attempt a negotiated settlement. If that fails, the clause calls for arbitration.

The United States' delay claim was filed in 1983 when the Soviets missed their deadline. In 1985 the Soviets lodged a delay claim against the United States. In 1986 both sides tried to negotiate a settlement under the claims settlement process. Talks were held in Moscow and Washington, D.C. but there was no resolution.

The United States' intentional defects

claim was filed in March 1987, and the defective workmanship claim was filed a month later.

While the claims settlement talks took place, both sides commenced formal arbitration proceedings in September 1985 with regard to the U.S. delay claim. A year later, arbitration of the Soviet delay claim took place. The United States' request for arbitration was amended in March 1988 with the addition of the intentional defects and defective workmanship claims.

**Unauthorized Practice of Law
Another First For California**

After years of grappling, like most state bar associations, with the intractable problem of catching and disciplining nonlawyers practicing law, the California State Bar appears to be heading toward recognizing and regulating nonlawyers in certain fields.

The Association's professional standards committee voted July 21 to create a new type of practitioner, the "legal technician." The plan calls for them to be licensed to handle noncourtroom

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work writing wills, handling divorces and other areas of law long attractive to nonlawyers working the field.

The plan went before the Association's board of governors in August, and at this magazine's deadline it was expected the proposal would pass. Implementation will take a year or more, not the least because the new plan will require the California Legislature to repeal the state's unauthorized practice of law statutes.

Licensing standards are being developed for the technicians, who will be regulated by the California Department of Consumer Affairs rather than by the bar. The move, if approved, is expected to have a wide impact in other states, including Washington, where several members of the Board of Governors of the Bar Association have recently held that a limited-practice rule allowing nonlawyers into certain areas of the law is the only way to protect the public from unauthorized practitioners as well as to help provide legal services to the poor.

The Business of Law

Perestroika Blues

The Seattle legal community continues to buzz with the aftereffects of a dramatic July "restructuring" of Karr Tuttle Campbell, the city's seventh-largest firm.

Fourteen of the firm's 87 lawyers and 15 staff members were dismissed in mid-July after the firm's board of directors agreed with the recommendations of a management consulting firm from Philadelphia and made the cuts to improve the firm's profitability.

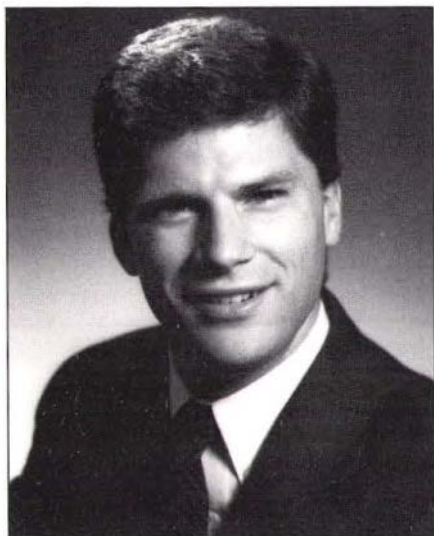
Among the victims were state Senator Phil Talmadge, American Bar Association Board of Governors member Llewellyn Pritchard, and Gerald Tuttle, son of one of the founders of the firm, Howard Tuttle.

The dismissed attorneys all expressed surprise at the move, and said they'd had no idea it was coming. Local papers suggested the changes represent a departure from the firm's old policy of allowing members wide latitude to participate in nonbillable public activities. But firm board chairman Craig Campbell said it was just a matter of economics, made necessary by the increasing competitiveness of practice. Karr Tuttle lost a

number of its estate planning department to Perkins Coie, another Seattle firm, earlier this year.

Bush Names McKay a White House Fellow

President George Bush has announced that John McKay of Seattle has been awarded a 1990-1991 White House Fellowship.



John McKay

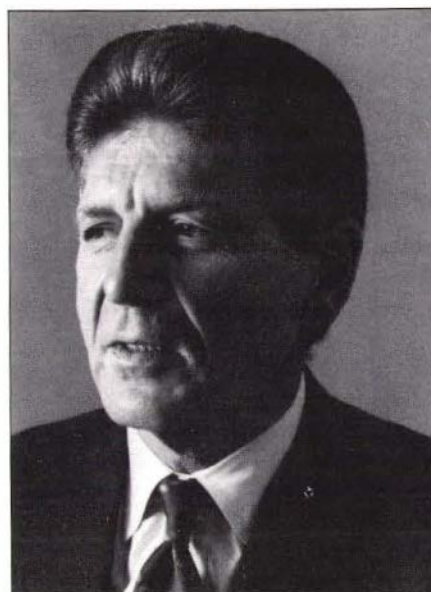
McKay, an attorney with Lane Powell Moss and Miller, was selected as one of 14 White House Fellows in recognition of his leadership, professional and intellectual achievements and dedication to his community. He will serve a one-year assignment as a special assistant to the director of the Federal Bureau of Investigation. He will also participate in an educational program which will include meeting with government officials, scholars, diplomats, journalists and leaders of business and industry.

McKay received his bachelor's degree in political science from the University of Washington and his jurisdoctorate degree from Creighton University in Nebraska. A former congressional aide, he handled forestry issues for U.S. Representative Joel Pritchard of Washington and helped create legislation that established the William O. Douglas Wilderness in Washington state. McKay has represented numerous indigent clients pro bono, in addition to his commercial litigation practice. He has managed a statewide U.S. Senate race and has served as legal counsel and consultant to

numerous political campaigns.

McKay is outgoing president of the 8,500-member WSBA Young Lawyers Division and is a founder and director of the Northwest Minority Job Fair, an organization that promotes employment opportunities for minority lawyers. He is active in his church, having served on the parish school board and as a volunteer youth coach in athletics and debate.

The White House Fellowships were established in 1964 to provide outstanding Americans with firsthand experience in the process of governing the nation and with a sense of personal involvement in the leadership of society.



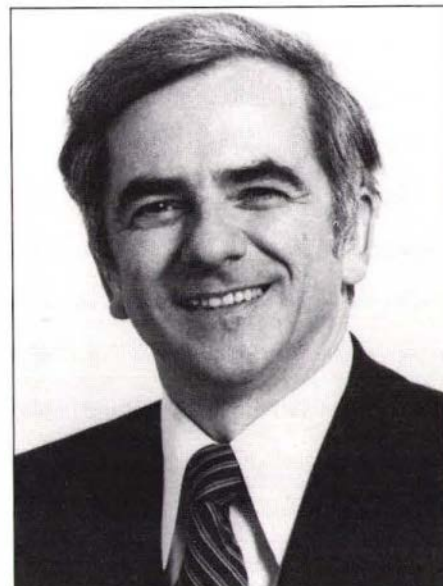
Gerald C. Meyers

Robert S. Banks and Gerald C. Meyers Featured At Corporate Counsel Institute

The Pacific Northwest Corporate Counsel Institute will be held on Friday, October 6, at the Washington State Convention and Trade Center in Seattle. In addition to the outstanding panel of speakers assembled from within and outside of Washington state to address topics of particular interest to inside and outside corporate counsel, the program includes keynote speaker Robert S. Banks and guest luncheon speaker Gerald C. Meyers.

Banks will address "The Cutting Edge Role of Corporate Counsel." He is

a management consultant for lawyers with the firm of Latham & Watkins in their New York office. Formerly vice president and general counsel for Xerox Corporation for 13 years and founding chairman of the American Corporate Counsel Association, he is a member of the board of directors for the Center for Public Resources, and former chairman of the Law Program. Banks has spoken at numerous professional gatherings and



Robert S. Banks

on national television and has written extensively on issues related to the management of the legal function, including the relationship of inside and outside corporate counsel. He is a trustee of the United States Supreme Court Historical Society, advisor to the Federal Courts Study Committee, Judicial Workload Committee, member of the board of directors of the Federal Judicial Center Foundation, member of the Standing Committee for the Improvement of Civil Justice System, Second Circuit Court of Appeals, and a member of the steering committee, Foundation for Change, sponsored by the U.S. Senate Judiciary Committee.

Luncheon speaker Gerald C. Meyers will focus his remarks on crisis management. He is the author of "When it Hits the Fan: Managing the Nine Crises of Business." Meyers is a well-known industrialist, lecturer, author, former chairman of American Motors, active business consultant and a specialist in the field of crisis management in busi-

ness. He is the Ford Distinguished Professor of Business at Carnegie Mellon University, Graduate School of Industrial Administration. Meyers became chairman and chief executive officer for American Motors Corporation in 1977, retiring early from the corporation in December 1983 after he successfully engineered the merger of the company with the well-known French automotive company, Renault. He is president of Gerald C. Meyers Associates, Inc., a consulting firm engaged exclusively in advising and assisting senior management in crisis prevention and crisis management.

Tort Law

Fewer Cards to Hand Out

An American Bar Association (ABA) commission is proposing that Congress create a federal judicial panel to take charge of litigation resulting from "mass torts," which it defines as including such single-incident disasters as airplane crashes and such diversified claims as injury induced by asbestos or Agent Orange.

To be considered by the ABA House of Delegates at press time the proposals will, if adopted, become association policy and a federal bill the commission



Spokane attorney/Rotary Club No. 21 president **Steve Phillabaum** and attorney **Jo Rosner**, speaking for the WSBA, present Spokane Public School District 81 board president **Unda Urquhart** with a plaque expressing their organizations' appreciation of the district's efforts to help young people better understand law and the judicial system. At the May 11 meeting, Phillabaum noted that District 81 has been a leader in statewide law-related education. Rosner noted that both the superintendent and the social studies coordinator have been supportive of all the programs of the Bar and of law-related education in general. The district now has five high schools with law firm mentors who assist in teaching law education.

drafted could be presented to Congress.

"Leaving each individual claim resulting from these situations to be resolved separately is inefficient and wasteful, and contributes to the unreasonable delays in justice that are fundamentally unfair to all parties. It in-

creases the likelihood of results that are inconsistent and thus unfair to both plaintiffs and defendants," said Robert F. Hanley of Denver, commission chair.

"We have sought solutions that are evenhanded, prompt and effective," Hanley said.

Other major points in the 76-page report are:

*The panel would be authorized to declare "mass tort litigation" and consider consolidation of all claims in a federal court whenever at least 100 civil tort claims arose from a single accident or from use of or exposure to the same product or substance, and each claim sought more than \$50,000 in damages for wrongful death, personal injury or property damage. It need not, but could, consider consolidation when the 100-claim, \$50,000 trigger occurred.

*The panel would have authority to consolidate some or all claims in mass tort litigation before a single federal court, whether they were filed first in federal or state court.

*When state law ordinarily would govern a decision, the federal court presiding in the mass tort litigation would select the appropriate state

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law to apply.

*In cases where punitive damages were claimed, all such claims would be consolidated, and the court would enter only one judgment in favor of or against the defendant. When judgment was entered for the plaintiff, damages would be apportioned among the plaintiffs and a portion potentially would be allocated to a public purpose. The defendant would sustain a single punitive judgment.

*Punitive damages would be awarded only where the defendant's conduct showed substantially greater indifference to safety than ordinary negligence, and was established under a "clear and convincing evidence" standard.

*When punitive damages claims were consolidated, a judgment would bar other punitive damage claims against the same defendant for the same conduct. A consent decree would not.

*The presiding court would have authority to convene panels of impartial experts when factual issues required resolution by expert testimony involving scientific, technical, medical or other complex principles.

*The court could require parties to engage in alternative dispute resolution procedures as long as they did not impair a right to jury trial.

*The court also could approve settlements that barred additional claims, including those of persons who did not become eligible to file suit until after the settlement.

*Courts and lawyers should develop guidelines to determine reasonable fees and expenses for all lawyers involved in a mass tort case, including the reasonableness of contingent fees when there are multiple clients or when liability is not seriously disputed, and situations where lead attorneys perform most of the work and other attorneys are less actively involved.

*Judges should allow the maximum reasonable fee for the circumstances of a case under the established guidelines in either a trial or settlement.

*Judges could require lawyers to

submit fee arrangements and billings to the court in confidential documents, and could disallow any fees that were plainly excessive.

*The ABA should support efforts to consolidate mass tort litigation, and cooperate with other groups seeking appropriate legislation.

The draft bill is incorporated as an appendix to the report.

The commission had 12 members, one of whom dissented from the report. Paul D. Rheingold of New York City objected to inclusion of what he characterized as "run-of-the-mill mass personal injury case(s)" in the definition of mass tort litigation, arguing that existing procedures deal with them successfully.

According to Rheingold, there have only been three examples of genuine mass torts — asbestos claims, Dalkon Shield IUD cases and Agent Orange claims — and "these cases have wreaked havoc on the judicial system." He maintains the commission's proposals are inadequate to handle those three situations. He argues that all such cases pending in those, or future similar cases, be transferred to one judge in mandatory, no-option suits, in which the rights of all litigants, even those as yet unborn, would be resolved.

Rheingold proposes that all sources of payment in case of liability would be brought into the suit; one-time com-

prehensive discovery would be held; the judge could apply any law he or she chose, or even create what might be called "consensus" law; damages would be awarded according to a schedule set to reflect jury expectancies, and a fund would be created to provide for future plaintiffs.

New IRS Employment Retirement Program

The Internal Revenue Service (IRS) has established a new program in the employee retirement plan area which may be of interest to your membership. It is called the Regional Prototype Program. It can simplify the establishment of a tax-qualified retirement plan which minimizes the problems associated with keeping an existing qualified retirement plan legally current.

If, after reading the information below, you have any further questions, call Charles Lockwood of the Employee Plans Technical and Actuarial Division in Washington, D.C. at (202) 343-0729 (not a toll-free number) between 2 and 4 p.m. Eastern time.

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basis, but dismayed by constant changes in the tax law, they may be interested to learn of a new, quick, easy and inexpensive way to enjoy the tax breaks of a qualified pension plan.

You can now advise clients of an advance proposal procedure, set up by the IRS, called the Regional Prototype Program. What formerly could only be done by organizations that qualified as sponsors of master and prototype plans can now be done by law firms, accounting firms, and actuarial consulting firms, provided certain conditions are satisfied. These requirements are described in Rev. Proc. 89-13, 1989-7, I.R.B. 25. If you can qualify, you can become a sponsor of a regional prototype plan.

A regional prototype plan is a defined contribution or defined benefit plan that is made available by a regional "sponsor." Once the plan is approved, you can make it available to any employer who wants to adopt it as his own.

To qualify as a sponsor you must have 30 clients that have their principal place of business within the jurisdiction of not more than two regions of the Service and are expected to adopt the plan.

Applications for approval of regional prototype plans are submitted on Form 4461 or 4461-A to the key district office of the region of the Service where the sponsor has its principal place of business. Each plan consists of a "basic plan document" which contains the provisions that apply to all adopters, and an "adoption agreement" which contains the optional provisions that can be selected. The key district office will issue a notification letter if it approves the plan.

One of the many advantages of the program is that it allows a great deal of flexibility in plan design. For example, the regional prototype Rev. Proc. 83-19 generally enables adopters of regional prototype plans to retain their reliance on IRS letters, even if there are subsequent changes in the law. Employers who adopt regional prototypes submitted to the IRS before November 1989 and which subsequently are approved may, except in unusual circumstances, avoid having to amend their plans again before 1995. The procedure even provides for reciprocity. A regional prototype approved in one region of the Service will be automatically accepted in other regions.

For certain types of plans known as "standardized plans" the adopting employer does not even have to submit the plan to the IRS. Even for "nonstandardized plans," all the employer has to do is submit a short Form 5307 to the Key District Office. The user fee of only \$100 is far less expensive than the cost of submitting an individually designed plan, which is \$450.

These features will enable regional prototype plan sponsors to dramatically decrease the work involved whenever the clients' plans need to be amended.

Even if you can't qualify as a direct sponsor of a regional prototype plan, you can still help your clients obtain the benefits of a qualified plan by becoming an adopting sponsor of a mass submitter's plan.

A mass submitter is one that has an IRS-approved plan that is expected to be adopted by a certain number of unaffiliated sponsors. An adopting sponsor is one who has at least three clients who are expected to adopt a mass submitter's plan on a word-for-word identical basis.

For further details, see Rev. Proc. 89-13.

Notes From the Academy

Edited by

Professor William B. Stoebuck

University of Washington

School of Law

Civil procedure. In personal injury action brought by victim of fire in condominium built and sold by defendant seven years earlier, plaintiff's action was not barred by RCW 4.16.310, the six-year statute of repose for liability arising from defective construction. Court reasoned that statute was intended to protect only builders and that statute did not apply to actions brought against defendant in capacity as seller. Two dissenters said majority had effectively repealed statute. *Pfäfer v. City of Bellingham*, 112 Wn.2d 562, 772 P.2d 1018 (5/18/89).

— *K. B. Tegland*

Creditor/debtor law. In contest for surplus funds from sale on foreclosure of trust deed on home, held that lien imposed under dissolution decree, to secure payment for former spouse's interest in home that was awarded to other spouse, was judgment lien that attached to real property on entry of decree before competing second trust deed was recorded. Lien attached even though premises were homestead, because, as award in partition proceeding in which property could not be appropriately divided, award was judgment for owelty, which is equitable lien in nature of vendor's lien. Therefore, it prevailed over homestead. Lien was not extinguished by lienholder's acceptance of trust deed where lienholder was ignorant of competing trust deed. *Hartley v. Liberty Park Assocs.*, 54 Wn.App. 434, ___ P.2d ___ (6/12/89).

— *M. D. Rombauer*

Evidence. In prosecution for driving with license suspended, trial court properly admitted copy of defendant's driving record (CCDR), certified by employee of Department of Licensing and bearing official seal of department. CCDR was sufficiently authenticated despite lack of affidavit or declaration under penalty of perjury and was within hearsay exception for public records as defined by RCW 5.44.040. Admission of CCDR did not violate defendant's right to confrontation despite lack of

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showing that custodian was unavailable to testify. *State v. Monson*, 53 Wn.App. 854, 771 P.2d 359 (4/17/89).

— K. B. Tegland

Family law. (Case 1.) Parties separated after 24-year marriage, during which wife helped support husband through education and establishment of private accounting practice and stayed home to raise children. Following separation, husband helped wife earn college degree, enabling her to earn \$750 per month. Wife unable to earn more because of serious visual disability. Trial followed husband's petition for dissolution. Court found that husband had estimated \$500,000 more than wife in resources, which he had transferred to third persons and were beyond court's reach. Court awarded wife "lifetime maintenance of \$2,200 per month because so many assets were beyond the reach of distribution and because Mrs. Morrow's needs were so great." Husband contends maintenance award was excessive because wife did not need that amount. *Held:* Award was not excessive, even though wife's actual need in excess of her income may be less than \$2,200 per month. Need is only one factor to be considered. Husband appropriated community wealth for his separate purposes, and trial court properly used maintenance as means of compensating wife for what was rightfully hers. *In re Marriage of Morrow*, 53 Wn.App. 579, 770 P.2d 197 (3/13/89).

(Case 2.) Dissolution decree required husband to pay and held wife harmless from parties' community indebtedness, including payments on car awarded to wife. Wife also awarded five years of monthly maintenance. Two months after decree, husband filed Chapter 7 bankruptcy petition to discharge debts required by decree. Petition was granted. Wife then moved to modify maintenance award following car repossession, as well as collection efforts and lawsuits directed against her for discharged debts. Court increased monthly maintenance award. Husband appealed. *Held:* Although Bankruptcy Code precludes husband from being recharged with discharged debts, court did not err in considering husband's discharge and subsequent collection efforts against wife as substantial change in parties' economic circumstances, justifying modification of spousal maintenance. *In re Marriage of Myers*, 54 Wn.App. 233, 773 P.2d 118 (5/23/89).

— J. W. Ellis

Personal property. During lifetime, deceased grandfather gave grandson check for \$10,000. Grandson failed to cash check and then lost it, but repeatedly made requests for another check, which grandfather never gave. Grandson *held* to have claim against grandfather's estate for \$10,000. Gift was complete, including grandson's acceptance, during grandfather's life. *Sinclair v. Fleischman*, 54 Wn.App. 204, 773 P.2d 101 (5/22/89).

— W. B. Stoebuck

Planning and zoning. (Case 1.) City of Everett operated sewage disposal plant in unincorporated area of Snohomish County. *Held:* City's sewage disposal plant was subject to county zoning; city was not immune from county zoning. *City of Everett v. Snohomish County*, 112 Wn.2d 433, 772 P.2d 992 (5/4/89).

(Case 2.) After granting SEPA threshold determination of nonsignificance, county granted building permit but imposed environmental mitigation measures upon permit. *Held*, county acted properly. May impose mitigation conditions after determination of nonsignificance. *Levine v. Jefferson County*, 54 Wn.App. 88, 772 P.2d 528 (5/11/89).

— W. B. Stoebuck

Real property. (Case 1.) Dispute over loss of lateral support by plaintiff upper owners against defendants adjoining lower owners. Defendants' predecessor in title had built retaining wall

on property line. After defendants became owners, wall gave way, so that plaintiffs' land lost support and slipped. However, plaintiffs failed to prove that land would have slipped in its natural condition, *i.e.*, without weight of improvements on plaintiffs' land. *Dictum:* Defendants, as successors in title to former owner who installed retaining wall, were liable to maintain it. *Held:* (1) However, defendants' duty was limited to maintaining wall sufficiently to provide support to plaintiffs' land in its natural condition. (2) Plaintiffs had duty, which they failed to discharge, to prove that their land would have slipped had it been in natural condition, without weight of plaintiffs' improvements. *Klebs v. Yim*, 54 Wn.App. 41, 772 P.2d 523 (5/8/89).

(Case 2.) Title insurance company issued to purchaser of land title policy that did not have exclusion against "encroachments . . . which an accurate survey may disclose"; *i.e.*, policy insured against such "encroachments." Policy defined "land" by legal description of land purchased. It was later found that purchaser's land had encroachment *beyond* its boundary, *onto neighboring land*. *Held:* Policy did not insure against loss arising from encroachment *beyond* boundary. It insured only against encroachments *onto* "land" as defined. *Transamerica Title Insurance Co. v. Northwest Building Corp.*, 54 Wn.App. 289, 773 P.2d 431 (5/30/89).

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George Turner And

by Charles K. Wiggins

A two-part article considers the creation of the Washington courts and the remarkable man who led the way.

Part I: A Character From Plutarch

George Turner was the most outspoken, articulate and controversial delegate to the 75-member Constitutional Convention of 1889. Although his formal education was limited to a total of eight months in a one-room schoolhouse, Turner was appointed Supreme Court Judge of Washington Territory at age 34 and served with distinction. Turner did not hesitate to oppose the most powerful corporate interests of the day, and they in turn opposed him and his political aspirations before, during and after the Constitutional Convention. In later years, Turner served in the United States Senate and assisted in resolving several international disputes. This brief article cannot paint an adequate portrait of Turner's legal acumen, his love for the Constitution and the law, and his passion for defending the underdog, all more fully described in the biographical sketches listed at the end of this article. Fellow delegate Austin Mires attributed to Turner "the first rank in the way of ability,"¹ and criticized his fellow delegates for growing "very jealous of the overshadowing ability of George Turner. . ."² Another contemporary eulogized Turner as a "warrior lawyer of a pioneer day who lived characteristically and intently in the search for justice through forensic combat."³

This remarkable man was the chairman of the committee which drafted one of the more noteworthy articles of the Washington constitution, the judiciary article. Delegate T. L. Stiles of Pierce County, who also served on the judiciary committee and was later elected Supreme Court judge, observed:

Among the meritorious provisions of our constitution which had any



George Turner
(photo courtesy of Washington State University Library)

degree of novelty at all, I pronounce the judicial system first. Not many of the states have constitutional courts, and still fewer of them have undertaken to define the jurisdiction of their courts by a higher law.⁴

The judiciary article was the first debated by the Constitutional Convention, at greater length than any issue other than the disposition of the tidelands. Turner also played an important role in debates over other issues, including his unsuccessful battle to establish in the constitution a commission to regulate the railroads, but that story must be told elsewhere.

From One-Room Schoolhouse to the Supreme Court Bench

George Turner was born in Missouri on February 26, 1850 to a hard-working frontier family with neither formal education nor the means to educate their own children. Turner's formal education aggregated eight months in a one-room school in Lebanon, Missouri.⁵ Even this rudimentary education was interrupted at age 11 by the outbreak of the Civil War. Turner's father and older brothers all enlisted in the Union forces, and young George found a place as a messenger boy in a military telegraph office. After the war, George joined his brother, Colonel W. W. B. Turner, ten years his senior, in Mobile, Alabama. Turner read law under his brother's supervision and was admitted to the bar in 1869 at the age of 19.

Turner became active in Republican politics during Alabama's reconstruction era. He was associated with Alabama's notorious carpet-bag senator, George E. Spencer.

By 1874, the tide had turned against the Alabama Republican Party, which retained the support of the vast majority of the black population, but that of only a few whites. Turner campaigned for election as attorney general of Alabama, but lost the election to a Democrat. Senator Spencer was defeated in 1877, and Turner then became the Republican leader in the state. Turner headed the predominantly black Republican delegations to the Republican national conventions in 1876 and 1880, earning him the gratitude of Presidents Grant and Arthur.

Arthur appointed Turner Justice of the Supreme Court of Washington Territory

The Judiciary Article

on July 4, 1884, an apparent reward for Turner's services to the Republican Party in Alabama and to Arthur's faction in particular. Turner's appointment violated a plank in the Republican platform of 1884 which declared that, "appointments by the President to offices in the territories should be made from the bona fide citizens and residents of the territories wherein they are to serve."⁶ Given his background, George Turner hardly seemed a fit candidate for Supreme Court judge.

Turner determined to make a favorable impression on the people of Washington at his first Court appearance on October 6, 1884 at Goldendale, Klickitat County, but his plan went awry:

He came down from Spokane to the Dalles, Oregon. Having passed a comfortable night at the Umatilla House, at 6:00 a.m. he started by buckboard stage for Goldendale. He had a grip containing his night clothes and a change of linen, and, ever careful to maintain the dignity of his office, he wore a plug hat and a Prince Albert coat, the latter being protected by a linen duster. The sun was bright and all other signs promised a beautiful day. The judge seated himself by the driver. Soon it began to rain; it penetrated the duster, the Prince Albert, and, the Judge thought, even his skin. It rained all day, and the young Judge was chagrined to find that every inhabitant of Goldendale was out to see the first judge ever to hold court in their town, crawl bedraggled from the stage.⁷

Despite this inauspicious beginning, Judge Turner soon distinguished himself by his hard work and legal reasoning. He sufficiently impressed territorial lawyers that he was able to weather the political storm which swept over Republican officeholders when Democrat Grover Cleveland became President in 1885. Alabama Democrats sought revenge on Turner for his role in reconstruction politics, campaigning to have him removed from the bench.⁸ Most of the lawyers in Judge Turner's district supported Turner in this battle, regardless of their political



A formal presidential photograph, 1882.

affiliation. The bar association of Spokane County adopted a resolution commending Judge Turner, vouching for his integrity, and recommending that he be retained in office.⁹ A prominent Democratic attorney of Spokane, L. B. Nash, wrote to the attorney general in defense of Turner:

We want lawyers, not politicians. We have been greatly outraged in the past in this Territory in the appointments of judges — with a few rare exceptions.

... Upon creation of the Fourth Judicial District about one year ago, George Turner of Alabama was appointed thereof ... We like him. The Bar, I think, without exception, are highly pleased with him and desire that he be retained in office until the expiration of his commission. In this I fully concur, for he has proved to be *first*, a thoroughly educated lawyer; *second*, his mind is eminently judicial; *third*, he is a well-bred gentleman; *fourth*, he is entirely fair and of strict integrity; *fifth*, he makes his Court pleasant for attorneys and has no favorites. In short, he possesses

more good qualities for a judge than one would expect to find in one appointed to fill his place!¹⁰

President Cleveland retained Judge Turner. Turner resigned from the Court in early 1888, presumably to embark in the private practice of law and to engage in politics.

When the delegates convened on July 4, 1889 for the Constitutional Convention, the eastern Washington Republicans favored Turner for chairman, or president, of the Convention, while the westside delegates favored John Hoyt of Seattle. Turner publicly protested that he was not a candidate, but tacitly allowed H. W. Fairweather, delegate from Sprague, to conduct his campaign. *The Seattle Times* described the decorum with which judges Hoyt and Turner conducted their campaign for the presidency:

The two leaders treat each other with grave courtesy and can occasionally be seen pacing the street together with slow and judicial tread; for though both are off of the bench, they have not lost that dignity and repose of manner, which men who have long served the public in a judicial character generally acquire. Judge Turner is especially a very solemn man, with large and penetrating black eyes and a constrained manner of speaking; a deep thinking man, I should say, who though he is not lean as Cassius was, is a foeman worthy of a good man's steel.

Hoyt and Turner never talk politics when they are together, and the fight for the chairmanship is a tabooed subject between them. Turner, it must be remembered, is not and never has been a candidate. He is, however, in the hands of his friends, who can do with him what they will. This is a delicate distinction which will be appreciated by politicians, though it will perhaps not be altogether clear to the laity.¹¹

Hoyt and Turner discussed the chairmanship long enough for Turner to decide to withdraw his own name and sup-



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port Hoyt for election. In a caucus of Republican delegates, Turner gracefully nominated Hoyt, explaining that although he had been mentioned as a candidate for president, "he believed that a majority of the Republican delegates favored another gentleman, and recognizing the eminent fitness of that gentleman he hoped his friends would do as he intended to do and cast their ballots for Judge Hoyt."¹²

Several of Turner's supporters refused to accept defeat and joined forces with the Democratic delegates in an effort to defeat Hoyt's election. The dissident Republicans schemed to vote against Hoyt on the first ballot, forcing a second one. In turn, the Democrats agreed that they would vote the second time around for any good candidate besides Hoyt. This scheme depended on a secret polling, which would disguise the defecting Republicans on the first ballot, and the Democrats on second. The convention agreed to a secret ballot by a vote of 38 to 34.

Turner nominated Hoyt, again praising him as "eminently fitted" to perform the duties of president of the Convention or any other office. C. H. Warner, of Whitman County, the territorial Democratic chairman, was also nominated, as was S. G. Cosgrove, an independent delegate from Colfax County. The ballots were collected in hats and were called out one by one and piled on the table before the counters. For a time, the outcome was in doubt, with Cosgrove showing surprising strength and Warner and Judge Hoyt proceeding neck and neck. The last few votes, however, put Hoyt over the necessary majority.

Turner's Later Career: Senator, Arbitrator and Counsel for the United States

Just as he had never shied from conflict in his younger days, Turner remained the focus of controversy throughout the rest of his long and distinguished career. He unsuccessfully sought election to the Senate in 1889, 1891 and 1893.¹³ Washington's first senators were John B. Allen of Walla Walla and Watson Squire of Seattle. Allen had been elected to the House of Representatives in 1888, but went to Congress instead as a senator after Washington's admission to statehood.¹⁴

Watson Squire had been appointed Governor of Washington in 1884, serving capably and promoting statehood until his replacement in 1887 by a Democratic appointee, Eugene Semple of Oregon.¹⁵

Just as he had never shied from controversy in his younger days, Turner remained the focus of controversy throughout the rest of his long and distin- guished career.

Turner mounted a major battle in the Legislature of 1893 to take Allen's place in the Senate. (Until the twentieth century, senators were elected by state legislatures.) The campaign was complicated by an intense rivalry between Seattle and Tacoma, Seattle favoring Allen and Tacoma George Turner.¹⁶ The Legislature deadlocked, ballot after ballot failing to produce a majority.¹⁷ Turner reportedly offered to withdraw if Senator Allen would also retire, but Allen enjoyed the support of Governor John McGraw, and counted on a gubernatorial appointment if the Legislature failed to reach a majority.¹⁸ The Legislature adjourned without electing either candidate, and McGraw appointed Allen to the vacancy. The Senate, however, after protracted debate, refused to seat Allen and Washington was left with only one senator for two years until John L. Wilson of Spokane was elected in 1895.¹⁹

Turner's opportunity came in 1897, when the Populist Party and the free-silver movement decimated the Republican ranks. Turner had become moderately wealthy through mining investments, particularly the LeRoi Mine in British Columbia, and he enthusiastically embraced the free-silver movement.²⁰ Turner left the Republican Party when the national convention declared for the gold standard in 1896: he formed a free-silver Republican organization. He was joined by Senator Squire, whose term was to expire in 1897. Washington's silver Republicans, Populists, and Democrats simultaneously held their state conventions in Ellensburg, and Turner played an important part in bringing about a fusion ticket.²¹ The three parties allocated statewide political offices among themselves; then each party nominated its own candidates for the po-

sitions allocated to it.²² The Populists commanded the greatest strength and received the preponderance of nominees, including the governorship. The fusion ticket carried the state, giving the Populists clear control of the Legislature.²³ Unfortunately, no agreement had been reached at Ellensburg as to the election of a United States Senator to succeed Senator Squire. The Populists could have elected a Populist candidate, but they were unable to agree among themselves. After a one-week deadlock, a fusion caucus finally chose George Turner, who was elected by a substantial fusion majority on the next day.²⁴

Turner served a single term in the U.S. Senate and battled against U.S. imperialism in the Philippines. He argued that the Constitution did not confer any power on the federal government to acquire territories to be held and governed permanently as colonies.²⁵ He argued that it was politically and morally wrong for the United States to assume ownership of the Philippines, declaring in a speech on the senate floor:

Liberty knows no clime, no color, no race, no creed. . . . The first fundamental of all liberties is the right to select your own form of government and your own rulers. The best of all governments is a tyranny if imposed on the governed without their consent.²⁶

Turner earned the respect of President Theodore Roosevelt, who appointed him as one of three "impartial jurists of repute" who were to meet with three British jurists to settle the long-standing boundary dispute between Alaska and Canada. Roosevelt probably selected a senator in order to convince the Senate to ratify the arbitration treaty, and he selected a Northwesterner in order to influence the opinion of the Northwestern states in favor of the arbitration.²⁷ The tribunal decided the main points in favor of the United States, and Turner gained the respect of his fellow arbitrators and the gratitude of President Roosevelt.²⁸

Turner failed to win a second term in the Senate in 1903. Prosperity had returned to the state of Washington, and the Populists and silver Republicans were gone from the scene, leaving the Republican Party with an overwhelming majority in the Legislature.²⁹ In 1904,

Turner was the Democratic candidate for governor, and campaigned vigorously on a platform of railroad regulation.³⁰ 1904, however, was also a Republican year, with Theodore Roosevelt sweeping the state and carrying the Republican gubernatorial candidate, Albert Mead, to victory.³¹ Despite Turner's unsuccessful campaign, the next Legislature enacted a railroad regulatory commission by a large majority; it was signed into law. Thus, Turner indirectly helped to bring about a railroad commission, for which he had vigorously but unsuccessfully contended 15 years earlier in the Constitutional Convention.

In 1910, Turner again served his country with distinction, acting as one of the leading counsel in a dispute over fishing rights on the Grand Banks of Newfoundland before the permanent court of arbitration at The Hague.³²

Turner died on January 26, 1932, a few weeks short of his 82nd birthday.³³ Austin Mires, a fellow delegate to the Constitutional Convention and a lifelong admirer of Turner, paraphrased Marc Antony's eulogy of Caesar, stating at Turner's funeral, "Thou art the ruins

of one of the noblest men that ever lived in the tide of times."³⁴ Another of Turner's contemporaries, Judge James Geraghty, also borrowed a classical metaphor, and described Turner as "of the Roman mold — a character from Plutarch."³⁵ □

¹Speech by Austin Mires, Ellensburg State Normal School, July 11, 1923 (original text on file with City of Ellensburg Public Library).

²Diary of Austin Mires, August 6, 1889 (WSU Library).

³Johnson, *George Turner, A Character From Plutarch*, 18 *Wash. L. Rev.* 167, 181 (1943).

⁴T. L. Stiles, *The Constitution of the State and Its Effects Upon Public Interest*, 4 *Wash. Historical Quarterly* 281, 282 (1913).

⁵Johnson, *George Turner, Part I: The Background of a Statesman*, 34 *Pac. N.W.Q.* 241, 245 (1943).

⁶Johnson, *George Turner of Supreme Court of Washington Territory*, 44 *Or. Hist. Q.* 370 (1943).

⁷*Id.*, 44 *Or. Hist. Q.* 371-72.

⁸*Id.*, 44 *Or. Hist. Q.* at 383.

⁹*A Character from Plutarch*, *supra*, 18

Wash. L. Rev. at 171.

¹⁰*George Turner of Supreme Court of Washington Territory*, *supra*, 44 *Or. Hist. Q.* at 384-85.

¹¹*The Seattle Times*, July 5, 1889.

¹²*Spokane Falls Review*, July 6, 1889.

¹³*Background of a Statesman*, *supra*, 34 *Pac. N.W.Q.* at 252.

¹⁴31, *Works of Hubert Howe Bancroft: History of Washington, Idaho and Montana, 1845-1889*, 315-16 (1890).

¹⁵*Id.*, 293-98.

¹⁶Hunter and Kaylor, *Washington West of the Cascades*, 327-29 (1917).

¹⁷*Id.*

¹⁸*Tacoma Union*, February 1, 1897.

¹⁹*Id.*

²⁰*Background of a Statesman*, *supra*, 34 *Pac. N.W.Q.* at 253.

²¹*Id.*

²²See Woody, *Populism in Washington: A Study of the Legislature of 1897*, 21 *Wash. Hist. Q.* 103, 104-05 (1930).

²³*Id.* at p. 110.

²⁴*Id.*

²⁵Johnson, *George Turner: United States Senator and Counsel and Arbitrator for the United States*, 34 *Pac. N.W.Q.* 337, 367 (1943).

²⁶*Id.* at p. 371.

²⁷*Id.* at p. 381.

²⁸*Id.* at 385-86.

²⁹*Background of a Statesman*, 34 *Pac. N.W.Q.* at 264.

³⁰*Id.* at 264-65.

³¹*Id.* at 266.

³²*United States Senator and Counsel and Arbitrator for the United States*, *supra*, 34 *Pac. N.W.Q.* at 386-87.

³³*Spokane Spokesman Review*, January 27, 1932.

³⁴Mires' Diary, January 28, 1932, Washington State University Library.

³⁵Johnson, *George Turner, A Character From Plutarch*, Part 2, 19 *Wash. L. Rev.* 18, 30 (1944).

Note on Sources

I have extracted the debate over the judiciary article from contemporary newspaper articles, drawing most heavily on the *Seattle Post-Intelligencer*, the *Tacoma Morning Globe* and the *Spokane Falls Review*. Claudius O. Johnson wrote a series of articles on George Turner: *George Turner, a Character from Plutarch*, Part I, 18 *Wash. L. Rev.* 167 (1943); Part II, 19 *Wash. L. Rev.* 18 (1944); *George Turner of Supreme Court of Washington Territory*, 44 *Ore. Hist. Q.* 370 (1943); *George Turner, Part I: The Background of a Statesman*, 34 *Pac. N.W.Q.* 243 (1943); *Part II: United States Senator and Counsel and Arbitrator for the United States*, 34 *Pac. N.W.Q.* 367 (1943).



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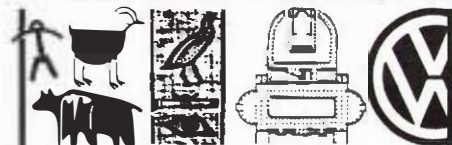
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William O. Douglas

by **Brian J. Linn**

When I first attended a monthly membership meeting of the WSBA World Peace Through Law Section in January 1987, I was uncertain as to what to expect. I was attending on a whim, not by invitation. I had never been involved in organized Bar activities, and I had no penchant for such participation as a general rule. I was actively involved in social concerns through my church, volunteer community activities and pro bono work, and I was curious about this idealistic-sounding group.

On arriving, I wondered whether the room would be filled with wild-eyed radicals, aging peaceniks, or would be a den of leftist-leaning social planners out to cure the planet's ills through some esoteric notion of world government. What I found within that room was a warm, nurturing, diverse group of people who had come together to support each other and to use their talents and skills as lawyers to promote the concept of law as a mechanism for resolving disputes and avoiding more harmful forms of conflict resolution.

Mayor Daley of Chicago (the father, not the son) used to relish stating, "Lawyers don't plant no trees." Within

the room that I entered that day were a dozen or so souls who were actively involved in a variety of horticultural projects that would disprove the Mayor's popular prose.

Two years later, I am still waiting to hear any discussion of world government. If this is the message or mission of individual members of the section, that has not yet been made known to me. Instead, I have encountered a group of unique individuals, each of whom takes seriously the notion of citizen diplomacy and his or her responsibilities as a member of a global society. Golda Meir has said, "Internationalism does not mean the end of individual nations. Orchestras don't mean the end of violins." It is from this sense of a world community that the World Peace Through Law Section appears to find its focus and its direction.

When I joined the section, I was previously not acquainted with any of its members. Through participation in section activities, including a planning retreat at Lake Cushman in the summer of 1987 and a hosted evening social event in December 1988, I have made new friends among those in my profession. Absent from these gatherings are typical lawyer "war stories" about recent verdicts, probing cross-examination or the heavy burden of office overhead. It is in

Opportunities in the 1990s for the World Peace Through Law Section

part the lack of more mainstream "shop talk" which has endeared this group and some of its individual members to me.

The World Peace Through Law Section is a small group, with a dues-paying membership of fewer than 200 from a potential population of more than 14,000 Washington lawyers. Those who consistently attend two or more functions of the section per year number only a few dozen. While we could bemoan the paltry size of our group, we prefer to laud the opportunities available to the group and to individual members as a result of the manageable size.

We are a group not steeped in tradition or history. There is no expected protocol. Because all leadership positions are reviewed and changed annually, there is great opportunity for those who wish to delve deeply into section work.

Opportunities for participation and outreach exist within our local community, at a statewide level, and at the levels of our nation and our world. There is room to plant many different types of seeds within our garden.

At the local level, our monthly membership meetings are frequently a source of information, discussion, personal growth and challenge. Attorney speakers within recent months have included Steve Brault (who brought slides of his sabbatical as a caregiver in India working with Mother Teresa), Louise McAllister (who participated with a group of Beyond War members and Rotarians in face-to-face meetings with the Leningrad Peace Committee) and Liz Schott, Jim Douglas, John Caughlan and Mike Witney (speaking about their ongoing civil litigation against Ferdinand Marcos).

Through continuing co-sponsorship of the annual Ralph Bunche Awards, we are able to maintain contact with and recognize local individuals and groups

who have parallel interests and projects. We are continually in need of members who are knowledgeable about the activities of nonlawyer groups to assist in keeping these lines of communication and cooperation open.

Through CLE sponsorship, we are able to learn and grow as lawyers in areas that are usually far removed from the primary areas of our legal practices. Those of us attending the section's 1987 program entitled *International Court of Justice and the Resolution of Armed Conflict: Nicaragua v. United States of America* were able to obtain a clearer understanding of the procedural and substantive aspects of this landmark litigation and its relevance in the broader context of world order. As lawyers, we were able to take this information back to the various communities in which we work and reside and further the understanding of others about the viability of law as a method for resolving international political disputes.

The section is currently in the process of exploring ways in which its activities can be made more accessible to those outside of the metropolitan Puget Sound area. We are in need of existing or new members who wish to plant some seeds in their local communities.

In order to look beyond the resources of our own state, we are currently in the process of contacting all of the other state and major urban bar associations to determine whether similar groups exist. During the 1980s, we have had no ongoing contact with attorneys in other states. During the 1990s, we hope to work in an organized fashion with lawyers across the country.

A recent planning meeting took place among section members who are interested in organizing a lawyer exchange with the Soviet Union. As we go to press, another group is planning to travel

together to the biennial conference of the World Peace Through Law Center to be held in Beijing, China during the week of August 20. Other groups will be meeting to plan future CLE activities and new projects.

Now is the time to bring your vision, roll up your sleeves and go to work. Any vision that is related to world peace through law will do.

My personal vision of the moment derives from the etched inscription over a portal at the Harvard Law School Library, which states, "Make us effective and useful for the advancement of the cause of peace and justice and liberty in the world."

My focus is on the misunderstanding of the interrelationship between peace, justice and liberty. My personal vision is to pursue liberty without "freedom fighters" who impose liberty through armed conflict. Yet I am troubled by those who see peace as the mere absence of war and who work against justice by advocating maintenance of oppressive status quo governments. I am deeply concerned when "peace through strength" is perceived not just as a means, but also as an end.

Our section meetings are generally held on the third Monday of each month during the noon hour. The next meeting will be at noon on October 16 in the offices of the Seattle-King County Bar Association. Bring your vision, and bring your seedlings, shovel, trowel and rake, or come sit in the afternoon sun and fertilize the vision of others. We'd even be willing to entertain discussion of world government if you wish.

We look forward to seeing you. □

Brian J. Linn is the managing partner of Linn & Schisel, a Burien law firm, and he is a member of the Executive Committee of the WSBA World Peace Through Law Section.



NEWS FROM HOME

Seattle lawyer **Harley Franco** has been elected to the board of directors of the Patrons of Cystic Fibrosis Guild. Franco will be chairing the Guild's 1989 Breath of Life Event and Dinner Auction, an annual event which last year hosted 650 persons and raised \$320,000 for cystic fibrosis research. This year's event will be held October 21 at the Seattle Sheraton.

The Spokane law firm of Randall & Danskin, P.S. has announced that creditors' rights and bankruptcy attorney **Anthony E. Grabicki** joined the firm July 1, 1989. Grabicki has been one of four designated bankruptcy trustees serving the Bankruptcy Court of the Eastern District of Washington.

The firm has also opened an office in Sandpoint, Idaho, recognizing the need to better serve existing clients over the border as well as the economic growth potential of the Bonner County area.

Former Klickitat County deputy prosecutor **Brian Altman** has established a private practice in Goldendale, where he'll also be working as city prosecutor and general counsel.

On the other side of the aisle, former Skagit County public defender **Fred Heydrich** has set up his own practice in

Mount Vernon. A 1980 Gonzaga law graduate, Heydrich spent five years with the Skagit County Prosecutor's Office before becoming a public defender.

A 1988 UPS Law School graduate has set up shop in Bremerton. **Janet L. Skeen** has joined Bishop, Hartman & Cunningham. A resident of Kitsap County for ten years, she worked with the firm as an intern for three.

Seattle attorney **Lowell Halverson**, a fellow of the American Academy of Matrimonial Lawyers, has become one of a handful of lawyers trained in matrimonial arbitration, a procedure conducive to faster, more efficient, less costly, and less emotionally-stressful divorces. He successfully completed a new training program co-sponsored by the American Academy of Matrimonial Lawyers, the American Arbitration Association, and the Stanford University Law School.

The program is in keeping with the American Bar Association's support of means of alternative dispute resolution. Academy fellows, after such training, are available to AAML litigators in the resolution of pending cases. In addition, they are available to courts to aid in the disposition of pending cases as arbitrators, referees, or special masters.

The American Academy of Matrimonial Lawyers, headquartered in Chicago, was founded in 1963. Its 1,180

fellows are lawyers who are experts in the complex area of family court and matrimonial law.

BRITISH COLUMBIA

VANCOUVER, B.C. — Two major Vancouver law firms have merged to form the largest western Canada law firm, and one of the 10 largest in Canada.

Russell & DuMoulin, which marks its 100th anniversary this year, merged with Lyall, McKercher, Hanna, whose origins date back to 1913, on July 1, 1989. The official name of the new firm will be Russell & DuMoulin, the merged firm of Lyall, McKercher, Hanna and Russell & DuMoulin.

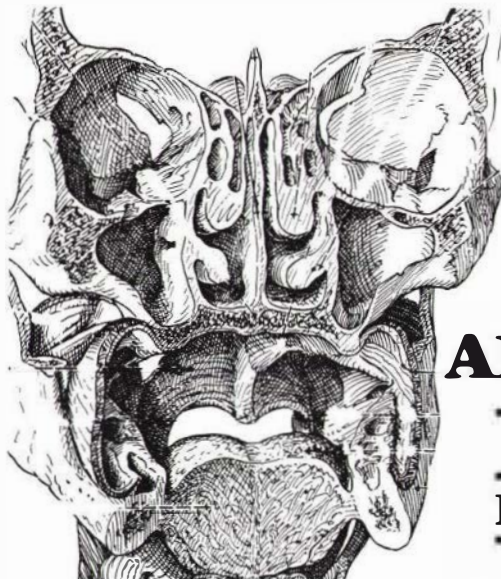
Representatives said the merger of the two established firms is being undertaken to provide the scale and range of legal services needed by clients in both the national and international marketplaces.

"The strengths of Russell & DuMoulin, especially in litigation and labor law, fit most compatibly with the corporate and commercial expertise of Lyall, McKercher, Hanna," **Gordon Lyall** of Russell & DuMoulin, said. "The merged firm will have practice leaders in more areas of law."

Lyall noted a trend in the United States and eastern Canada towards formation of large national and international law firms. "As many businesses merge to achieve the clout needed to compete in global markets, legal and other professional firms are responding similarly to keep pace," he said. "Our new firm will be better able to continue providing world-scale services for clients based across Canada, the United States, Europe and the Pacific Rim."

However, he felt that because of the decentralized structure of the firm, service to smaller clients would not suffer as a result of the merger. "Our team-leader system provides for delegation of work and emphasizes personal attention to individual clients," he said.

Russell & DuMoulin has a total complement of 150 lawyers. There are no immediate plans to centralize offices of the firm, now at 885 and 1075 West Georgia Street in Vancouver.



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CLARK COUNTY REPORT

by JOHN F. NICHOLS

Elections: The annual CCBA election results were announced by outgoing president **Steve Tubbs**. Campaigning on the risky pro-democracy platform was **Paul Henderson**, who was elected president. A pall was cast over the results, when, in a cruel twist of fate, **Manuel Noriega**, president of the Panama Bar Association, sent observers to verify the polling. Joining Paul's cabinet are **John Nichols**, vice president; **Ben Shafton**, secretary; and/or **Bill Dudley**, treasurer.

People in the News: 1. **Gerald Miller:** Gerry has forsaken private practice to work for Columbia Aluminum Company. The exact nature of Miller's employment is unknown, but it's said to involve direct one-on-one contact with residential owners for purposes of improvement to one's habitat. Gerry's position as a "tin-man" in the siding business is a natural due to his sales-like delivery and his Danny DeVito appearance. Good luck Gerry, and no, I like to paint my own house.

2. **Wayne Nelson:** Wayne of Blair Schaefer, et al. has accepted a high-powered position at the Clark County PUD. Wayne has been busily familiarizing himself with such electrical terms as AC/DC; positive ground and inane PUD jokes such as "Watt's a volt?" Keep the hand buzzer ready, Wayne.

Other news has **Blair Schaefer** naming as a new associate — one **Scott Hogan**, formerly with a Seattle firm and a former member of the "Hogan family." Scott advises that **Sandy Duncan** really is as nice as she appears, but that **Rhoda** was not a joy to work with. Moving up in the Blair Schaefer billboard as new partners are **Mike** (Simple) **Simon** and **Dave** (Billy) **Christel**.

3. **Marlene Hansen:** Joining the Hazel Dell migration is Marlene Hansen, formerly of Weber & Gunn. She will be in solo practice, emphasizing general practice, folksy humor and homemade cookies. Marlene's spouse, **Grant Hansen**, continues to patrol the wilds of Skamania County as the Chief (and only) Deputy Prosecuting Attorney.

4. **Bob Yoseph:** Bob's new do continues to go unnoticed.

EAST KING COUNTY REPORT

by RANDOLPH I. GORDON

"All the news that fits, we print. We've nerves of steel and hearts of flint. You'll find here no benevolence; perhaps some crass irrelevance or gossip sans intelligence. All the news that fits, we print."

So spake the *Bar News* editor. (I knew how I had fretted him: this column was submitted late — a day beyond the deadline date.) "Having failed, you've earned your fate." So spake the *Bar News* editor.

"I really gave the college try. And," I said, protesting, "I . . . I didn't have much news this time. Is one small day's delay, a crime? At least the column's done in rhyme, I really gave the college try."

Enough introduction, what I'd like to say pertains to the news which has just come my way.

FLASH!

The East King County Bar Association just concluded its annual retreat at the home of president **Barry Hasson** in the enviable position of having met its goals for 1989 six months into the administration. The board of trustees debated between two alternatives: setting new goals or suspending the Gregorian

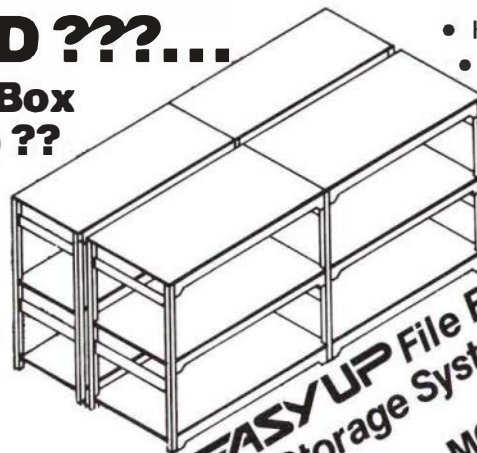
calendar for the balance of 1989. They initially chose the latter, but due to vacation conflicts and difficulties rescheduling weekends and holidays, they had to reconsider. EKCBA reports a nearly 20% increase in membership.

The Eastside Legal Assistance Program (ELAP) has nearly finished constituting its first working board consisting of fifteen: nine lawyers and six lay members involved in community service. (It was supposed to be eight lawyers and seven lay members, but **Arabelle Campbell** practices law as well as serves on the Board of Eastside Domestic Violence.) ELAP is intended to help provide legal assistance to members of the Eastside community with incomes up to 125% of the federal poverty level. The other lawyer members are: **Ken Davidson** (EKCBA president-elect and vice president); **Barry Hasson** (EKCBA president); **Eric Jeppeson** (past EKCBA president); **Doug Robertson**, **Doug Harris**, **Stephanie Searing**, and **Will Roarty**. The ninth seat is presently vacant. Invited, but unable to fill it because of other commitments: Bellevue prosecutor, **Susan Irwin**.

The lay members are **Donna Levinson** (Eastside Mental Health); **Karin Frankenburger** (Greater Seattle Council of Churches); **Julie Davidson** (Northshore Youth and Family Service);

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Regina Tyner (formerly of Mayor's and Governor's offices); **Wanda Mendez** (Senior Rights); and **Nancy Myhree** (active in Eastside human services and the Riverview School District bond issue).

For the current year, EKCBA section chairs are as follows: **Ross Jacobson** (business and commercial); **Chris Shank** (family law); **Warren Koons** (real estate); **Don Fleming** (trust and probate). Call for information or meeting times.

Any news at all? You know who to call.

**GOVERNMENT LAWYERS
REPORT**
by **ROBERT J. FALLIS**

The Government Lawyers Bar Association is pleased to announce the election of officers for 1989-1990. Those taking office are: president, **Nancy Krier**; first vice president,

Rusty Fallis; second vice president, **Bob Hargreaves**; secretary, **Mary Jo Diaz**; and treasurer, **Jerri Thomas**.

The Gov Law June luncheon program was "Government Career Choices for the Government Lawyer." The featured speakers were Washington Department of Natural Resources Deputy Supervisor **Laura Eckert**, Washington Assistant Attorney General **Scott Blonien**, and Thurston County Deputy Prosecutor **Tom Bjorgen**. These talented and insightful people offered many entertaining and fruitful perspectives on the multitude of public service opportunities for attorneys.

In August, Gov Law and the Capitol Chapter of Washington Women Lawyers co-sponsored a luncheon program featuring **Miriam Fields, M.D.**, Director of the Washington Department of Health's Office on HIV/AIDS. Dr. Fields, whose presentation was "Sexually transmitted disease statutes and the role of the Office of HIV/AIDS," provided expert guidance and a wealth of information about the state's efforts to address the multifaceted AIDS crisis.

Gov Law is privileged to welcome back one of its own for its September luncheon program. Former Gov Law president **Mary Prevost**, now Executive Director of the Conference of Western Attorneys General, returns to speak about her duties with CWAG, the National Association of Attorneys General, and national and western regional issues of interest to Washington government attorneys. While we were sorry to see Mary go, our loss was surely CWAG's gain, as Mary is eminently qualified to lead that organization.

Fall brings with it more Gov Law programs, including CLEs on 1989 legislation and family law for pro bono attorneys. For more information about Government Lawyers Bar Association activities or membership, feel free to call **Nancy Krier**, (206) 459-6558 or **Rusty Fallis**, (206) 753-5528.

**LOREN MILLER
BAR ASSOCIATION**

The Loren Miller Bar Association held its annual dinner meeting in Seattle June 17. The evening's activities included the "Roast and Toast" of the Association's 1989 honorand, Seattle lawyer **Philip L. Burton**.

Born in Topeka, Kansas, Burton



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graduated from Washburn School of Law and moved to the Pacific Northwest in 1949. He was praised for over 40 years of service to the community, including time spent as president of the Seattle branch of the NAACP and some 25 years on its executive board. He was a founding member and former president of the Loren Miller Bar Association, former president of Northwest Harvest, and is active in the ACLU and Kappa Alpha Psi fraternity. He and his wife are the parents of two children, one of whom is also an attorney, **Kenneth Burton**.

Among those taking Burton's measure at the event were U.S. District Judge **Jack Tanner**, NAACP president **Lacy Steele**, **Bernice Holland**, **John Cannon**, **Carl Maxey** and **Lem Howell**. Master of ceremonies for the event was **Gary Gayton**.

MICRONESIA REPORT by **STEPHEN A. COHEN**

July was a banner month for Gonzaga law graduates in the Northern Mariana Islands. **Edward Manibusan** resigned from his post as the Director of Public Safety to become the Commonwealth's Attorney General, and **Robert Naraja** left the Attorney General's Office to become the new Public Defender. Although their appointments are subject to confirmation by the Commonwealth Senate, no opposition is expected. Ed and Bob were both born and raised on Saipan.

Other Gonzaga Law graduates practicing in the Northern Marianas are **James Sirok** and **Ray Yana**, in private practice, and **Mimi Buescher**, Assistant Attorney General.

Hawaii has been a favorite destination this month for Washington lawyers in the Northern Marianas, having enticed the likes of **David Webber**, **Larry Rogers**, **Tim Bruce** and **Maile Huvar Bruce**.

On the political front, Bob Naraja's father-in-law, **Larry I. Guerrero**, is a candidate in the Republican primary election for Northern Marianas Governor.

Finally, the aforementioned Tim Bruce, Legal Counsel to the Commonwealth Senate, won a \$17,000 speed boat and motor in the annual Red Cross raffle. His prize is all the more appropriate as he is the public information officer of the U.S. Coast Guard Auxiliary in the Northern Marianas.

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

Jim Marshall of Rovai, Miller, Orlando, et al. has been appointed as the newest court commissioner. The last court commissioner, **Megan Foley**, also came from the Rovai firm. If you want in the pipe for the next court commissioner job opening you might consider applying for Jim's position.

Richard Levandowski has returned

from a 640-km bicycle race in Norway. The course ran from Trodhiem to Oslo, and the racers encountered some severe weather conditions. Richard intended to enter this race as he once lived in Norway, and did not take a wrong turn on his way to the Tour de France.

The Young Lawyers are holding a summer dance called "A Night in the Tropics." The promotional flyer mentions the cost (\$10) and the caterer (O'Sheas) but neglects to give the date, time, or place of the event. It is sure to be

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Patricia M. Amedeo †
*has become
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Former Saltman & Stevens attorneys will continue their practice with concentration in government contracts, including timber sales, as well as environmental, construction contract, and antitrust law.

Messrs. Saltman, Stevens and Fausti and Ms. Tiger will be resident in our Washington, D.C. office, and will continue to practice in their existing quarters at 1612 K Street N.W., Suite 1000, Washington, D.C. 20006, (202) 887-6760, through September 15, 1989, at which time the firm's practice will be consolidated within the offices of Bogle & Gates.

Messrs. Saltman and Stevens will also be present in our Portland, Oregon office on a regular basis. Mr. Miner and Ms. Amedeo will be resident in our Portland office.

July 1, 1989

† Not a member of the Bar.

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well attended.

Ed Lane, a fellow of the American Academy of Matrimonial Lawyers, is one of the few lawyers trained in matrimonial arbitration, having successfully completed a training program co-sponsored by the Academy, the American Arbitration Association and Stanford Law School.

Ann M. Kaiyala has joined **Robert**

Taub in the practice of family law in University Place.

Garry G. Fujita has joined the Davis, Wright & Jones firm.

Richard Weiss just became the father of twin boys and was placed on the injured reserve list by his slow-pitch softball team.

Alex McLaren is running for mayor of Tacoma.

SEATTLE-KING REPORT

by **JAMES L. VARNELL**

Dress For Success. Once again, it is time for publication of the names of the attorneys deemed "Best-Dressed in Seattle," according to that authoritative fashion-plate, **Mister Varnell**, who formerly researched the national best-dressed list for **Mister Blackwell**. This year's honorees are: **Jackie Brown, Michael L. Cohen, Lori L. Guzzo, Philip G. Hubbard, Marisa Velling, Chi-Doo Li, Marco Magnano, Jr., Gloria L. Wakayama, Lynn E. Moberly** and **Ernest C. Matthews, IV**. Three new categories were added this year, and the winners are: **Lew Pritchard** for the longest and strongest suspenders; **Gary Faull**, best-dressed in the under-six-foot division; and **Michael E. Withey** in the category for most dramatic change in dress from law school and/or public defender days. Also-rans for this select group included **Gordon Woodley, Mike Welch** (on the first team last year, but falling short of the mark in 1989), **Alva Long** (always a contender) and **Henry Aronson**.

The selection committee also provided us with names of those attorneys most closely resembling (in apparel only, not in looks or income) various national celebrities:

Sylvester Stallone — **Larry "Yo"**

Longfelder;

Donald Trump — **Earl Lasher;**

Meryl Streep — **Sally Gustafson;**

Ted Turner — **Larry Ransom;**

Robert Redford — **Kelly Corr;**

Bruce Springsteen — **Gary Strauss;**

Jack Nicholson — **Seth Armstrong;**

Barbara Walters — **Judge Carolyn**

Dimmick;

Judge Wapner (of "People's Court")

— **Malcolm Edwards;**

Corbin Bernsen (of "L.A. Law") —

Wolfgang Anderson; and

Justice Sandra Day O'Connor —

Nancy Gibbs.

Errata. In a previous edition of the *Bar News* it was noted that **William Zoberst, Robert Scott Marconi** and **Scott Breneman** had become partners at Stanislaw, Ashbaugh, Chism, Jacobson & Riper. In fact, they are associates. However, they send along word that they

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MARITIME PERSONAL INJURIES

ADMIRALTY NOTE: In recent years many marine insurance underwriters have been denying insurance claims that would have been routinely paid in the past. An attorney handling a marine insurance claim should recognize that litigation may arise and collect and preserve any favorable evidence as soon as possible.

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do appreciate the congratulatory messages received regarding their short-lived "status."

Office Moves. **Miriam T. Kasperson** has become an associate at Merrick & Olver. **Joseph P. Bartek** is a new associate at Goodwin, Grutz and Scott. **James E. Fearn, Jr.** has joined Tousley Brain, and **Robert Glennon Casey** is a new associate there. **David V. Marshall** is now with Davis, Wright & Jones. Madden, Poliak, MacDougall & Williamson has relocated its offices to 1001 Fourth Avenue Plaza, Suite 2800.

Of Note. **Ross Jacobson** has been appointed to a national volunteer training program for Special Olympics International. New officers of the Washington State Chapter of the American Immigration Lawyers' Association are: **Robert N. Tulloch**, president; **Joel H. Paget**, secretary; **Kathleen M. Weber**, treasurer/membership chair; and **Daniel H. Smith**, program chair. The Seattle-King County Bar Association has recognized **Nancy Talner** and **Lauren Marshall** with its award for Young Lawyer of the Year.

STEVENS COUNTY

The Stevens County Bar Association, Northwest Washington Rural Resources, and Spokane Legal Services joined together May 31 to honor Stevens County lawyers for the commitment to providing legal services to the poor. Among those honored were **Louis Chernak** and **Rebecca Baker**, pro bono attorneys of the year; **Patty Chester**, Stevens County Court Clerk, for technical assistance; paralegal **Katie Szurek**, for program support; **Helen Dee Hokom**, PAI outstanding attorney for 1987-1988; and **Rebecca Baker** and **Bryan Geissler** for certificates of merit.

SPOKANE COUNTY REPORT

by **BERNIE McNALLEN**
and **RICH KUHLING**

Activities: The Spokane County Young Lawyers recently assisted the American Legion in the presentation of "Law Day" to approximately 600 high school juniors. Spokane attorneys **Brenda Snyder**, **Cynthia Imbrogno**, **Greg Hicks** and **John Rodgers** an-

swered questions on a variety of law-related topics including criminal law, bar exams and ethical issues as well as related subjects involving law practice.

Elected: The Spokane County Young Lawyers has elected the following officers and trustees for the 1989-1990 year: **Mark Laiminger** (president); **Greg Hicks** (vice president); **Ward McAuliff** (treasurer); **Jeff Ropp** (secretary). New

trustees are **Carol Eng**, **Chris Kerley**, **Jeff Ropp** and **Steve Faust**. Continuing trustees are **Mark Matkin**, **Nancy Rockwell** and **Stephanie Farrell**. **Greg Hicks** has also been appointed as the eastern Washington network coordinator for the Washington State Young Lawyers Division.

Recreation: The annual Spokane County Bar Association Golf Tourna-

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ment was held at the Downriver Golf Course on June 16. Over 120 members participated, and a good time was had by all. While there were a number of excellent overall scores, amazing long drives, and a very competitive closest-to-the-pin contest, none of this year's participants have announced their intention to join the PGA tour. Fortunately, the hearsay rules (and good taste) preclude giving any more space or credence to many

of the golf-provess stories that emanated from the tournament.

Kudos: **Richard B. White** of the Evans Craven & Lackie firm in Spokane received a heart-felt thank you from the staffs of Spokane Legal Services Center and the Spokane Bar Association for his superlative contribution and individual efforts in establishing a scholarship program to enable indigents to avail themselves of the Do-It-Yourself Divorce

Seminar. The seminar is a joint project of Spokane Legal Services Center and the Spokane Bar Association. Rick also serves on the Pro Bono Attorney Review Panel which is comprised of 32 attorneys.

Lights-Action-Camera: Despite the fact that Cecil B. DeMille has been unable to provide any guidance, video taping of courtroom proceedings has been taking place since January in Judge **James Murphy** and Judge **Harold Clarke's** courtrooms in Spokane. The one-year program has been in place since January 1989 and appears to be working very well from the points of view of the judiciary and many trial practitioners.

WASHINGTON STATE ASSOCIATION OF MUNICIPAL ATTORNEYS

The following eleven persons were elected/re-elected to the Board of Directors of the Washington State Association of Municipal Attorneys (WSAMA), and to the offices indicated, at the 33rd Annual WSAMA Meeting, June 16, in Spokane (an interim bylaw amendment added three new board members to this year's roster):

Donald H. Stout, president, Chief Assistant City Attorney of Seattle; **Patricia Bosmans**, first vice president, Assistant City Attorney of Tacoma; **Martin F. Muench**, second vice president, City Attorney of Puyallup; **Larry D. Winner**, board member representing cities of 2,500 or more population, Senior Assistant City Attorney of Spokane; **Linford C. Smith**, board member representing cities between 2,500 and 50,000 population, City Attorney of Mount Vernon; **Sandra Driscoll**, board member at large, City Attorney of Kent; **Sandra M. Watson**, board member at large, Assistant City Attorney of Seattle; **Wayne D. Tanaka**, board member at large, West Side, City Attorney of Issaquah; **Daniel B. Heid**, board member at large, East Side, City Attorney of Sunnyside; **Scott C. Broyles**, immediate past president, City Attorney of Asotin and Clarkston; and **Robert F. Hauth**, secretary-treasurer, General Counsel, Municipal Research and Services Center of Washington.

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YAKIMA COUNTY REPORT

by JOSEPH D. HAMPTON

Probably the best-attended Yakima County Bar Association Luncheon Meeting in any given year is the traditional rite of election of the next year's officers. In the last scheduled meeting of the 1988-1989 year, held June 2, the bar's best and brightest were chosen by acclamation on the basis of their respective gifts. **Kevin Kilpatrick**, described by his nominator and boss **Bill Weigand** as illiterate but a fast learner, was elected secretary. Spendthrift **Rick Smith**, nominated by **Ralph Scott**, will serve as treasurer. **Morris Shore** was nominated vice president apparently because **John Moore's** Doberman Pinschers like him. **John Gavin** spoke at great length in the nomination of **Bob Redman** for the presidency. Bob has earned the post because he spent the entire year as vice president, and everyone knows that a guy like Bob deserves more than a pitcher of warm spit. Finally, it should be noted that the matter of a board of trustees for the association was also discussed. To an overwhelming response, **Vince Beaulaurier** nominated five exceptionally qualified, deceased lawyers, and **Phil Lamb** moved that these gentlemen serve in perpetuity. Congratulations to all new officers.

The annual bar picnic was held on June 9 at a private park a discrete distance from town. Kudos to **Denny Colvin** and his able assistants for an outstanding afternoon of feast and frolic. Denny's select team of ringers in red won the volleyball tournament, which was conducted under the watchful eye of **Jim Lust**. Outgoing president **Jim Scott** won the hole-in-one contest with a shot a few feet from the pin.

The Yakima County Young Lawyers Division is in its formative stages, with interim president, **Linda Sellers**, at its helm. The group plans to serve the community and the local bar with educational, pro bono and social programs. At its first meeting in late May, the group, in a departure from local bar precedent, swore a blood oath to hold all mealtime meetings at establishments serving only the finest in nontoxic (yet affordable) cuisine.

IN MEMORIAM

Donald S. Voorhees, 72, died July 7, 1989 in Seattle. Born in Leavenworth, Kansas, Voorhees graduated from the University of Kansas and Harvard Law School. He entered private practice in Seattle and worked with distinction for many years prior to his appointment as a federal judge in 1974. Voorhees sat on the Western District of Washington bench until illness forced his retirement in 1986.

The *New York Times* reported that "of his rulings in his 12 years on the federal bench, none was considered more noteworthy than the 1986 decision in which he found that the government had improperly concealed evidence from the courts at a 1944 hearing on whether there was a military necessity to relocate Japanese-Americans from their homes in the Western states to internment camps." The decision overturned the conviction of Gordon K. Hirabayashi, who had opposed relocation, and was widely seen as a landmark vindicating those who felt the relocations had violated Japanese-Americans' civil rights. Congress later voted to issue an apology and an award of \$20,000 to each person interned.

Voorhees also gained notice for a 1979 ruling when he overturned an antibusing initiative approved by Washington state voters. In another case, he barred county jails from conducting random strip searches of prisoners.

Judge Voorhees served three years on the board of the Federal Judicial Center in Washington, D.C., and wrote a book for judges, "Recurring Problems in the Trial of Criminal Actions." In 1985 he was awarded the Seattle-King County Bar Association Award for Distinguished Service. Survivors include his wife, five children, three grandchildren and a brother and sister.



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who has joined the firm as an associate in our Portland office and, born in Shanghai, People's Republic of China, is one of the first natives of Mainland China admitted to practice law in the State of Oregon.

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John Powell

The Seattle-King County Public Defender Association will celebrate its Twentieth Anniversary September 21 with a dinner featuring ACLU National Legal Director John Powell.

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The Defender has been recognized nationally as a leader in public defense, and its director, WDA President Bob Boruchowitz, received the NLADA Reginald Heber Smith award in 1987.

The office has a large summer intern program for law students (17 this year), an investigator intern program (18 this summer), and a clinical program with the University of Washington School of Law.

John Powell is a former Defender Association attorney, working in misdemeanors and felonies in 1973-1975. He taught for three years at the University of San Francisco, worked for a legal services leadership project, and was executive director of the Miami, Florida, Legal Services program. He was a staff attorney for Evergreen Legal Services in Seattle. He was an instructor in India and consulted for the Government of Mozambique on food aid.

Ticket information for the dinner is available from the Defender office at (206) 447-3925.

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Did I Say That?

by **Claudia L. Palmer, PLS**

(Author's note: All of these real-life examples are from pleadings and correspondence that have come across my desk. The identities of the perpetrators have been suppressed to protect the guilty, and I hope embarrassed, parties.)

Even the best attorney-writers depend a great deal on their office support staff to get their thoughts across as clearly and concisely as they state them in dictation. With the advent of personal computers and/or word processors, especially those with spelling programs, you would think this would become simpler. However, the following got through any spell-checking program in the originating law office without a beep.

We want to meet with the treating doctor simply to illicit his opinion.

Such injuries were approximately caused by third persons.

With this document we are openly inviting our clients to question their attorney's voracity.

I thought the seminar on jury instructions was too alimentary.

I'll send the papers you requested as soon as I receive confrontation from my client.

Take heart — attorneys are not alone. Doctors and insurance adjusters also use creative phraseology and spellings.

Our company holds the settlement funds until we have a signed release — it's a matter of principal.

You can reach me at the above number during mourning hours.

It was a matter I knew nothing about until I divulged into it.

The insured works for the Warehouse Company, and his wife works for a pharماسuitical house.

Sorry I'm late in getting these medical records to you. Thanks for your patients.

And John or Jane ●. Public may not have a fancy word processor, and so relies on creative spelling to get the point across:

Please right him about the late payment on that promissory note he signed.

I got my secretary diploma from Modern Bussiness College.

Sometimes originality deserves recognition. Could you better the following?

We studied the defendant's statement carefully to determine his position. Now we know where the defense lies.

Due to a calamity of events, she suffered severe injuries.

And, of course, the obligatory example of legalese at its best (read "worst"):

"Meeting" means any coincidence of presence of persons, whether such coincidence of presence was by chance or pre-arranged, formal or informal, or in connection with some other activity.

There are more, but time is too short. I'm due at a pre-arranged formal coincidence of presence of persons in half an hour. We're discussing an opposing counsel's voracity — an alimentary question in the case, and just one faucet of the hole picture.

(Claudia L. Palmer is a Certified Professional Legal Secretary in Seattle. She has been a paralegal with Longfelder, Tinker, Kidman & Flora for 14 years, concentrating on personal injury and professional negligence. This, she says, "gives me a unique opportunity to glean goodies like these from pleadings and correspondence coming into our office." She confesses one item nearly went out of her office, but won't say which.)

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