

Proceedings of the
Idaho State Bar

VOLUME XLII, 1968

Forty-Second Annual Meeting

Sun Valley, Idaho

July 4-5-6, 1968

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JOHN C. RICE, Caldwell, 1923-25
FRANK MARTIN, Boise, 1923-25
JESS HAWLEY, Boise, 1927-30
WM. HEALY, Boise, 1930-33
JOHN W. GRAHAM, Twin Falls,
1933-36
J. L. EBERLE, Boise, 1936-39
C. W. THOMAS, Burley, 1939-42
E. B. SMITH, Boise, 1942-48
CLAUDE V. MARCUS, Boise, 1949-51

T. M. ROBERTSON, Twin Falls,
1951-54
WILLIS E. SULLIVAN, Boise, 1954-57
SHERMAN J. BELLWOOD, Rupert,
1957-60
GLEN A. COUGHLAN, Boise, 1960-63
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1963-66
NICHOLAS G. SPEROPULOS, Weiser,
1966-67

Eastern Division

N. D. JACKSON, St. Anthony, 1923-25
A. L. MERRILL, Pocatello, 1925-28
WALTER H. ANDERSON, Pocatello,
1928-34
E. A. OWENS, Idaho Falls, Pocatello,
1934-40
L. E. GLENNON, Pocatello, 1940-43
PAUL T. PETERSON, Idaho Falls,
1943-46
R. D. MERRILL, Pocatello, 1946-49

RALPH LITTON, St. Anthony, 1949-52
L. F. RACINE, Jr., Pocatello, 1952-55
GILBERT ST. CLAIR, Idaho Falls,
1955-58
J. BLAINE ANDERSON, Blackfoot,
1958-61
WESLEY F. MERRILL, Pocatello,
1961-64
R. V. KIDWELL, Idaho Falls, 1964-67

Northern Division

ROBERT D. LEEPER, Lewiston,
1923-26
C. H. POTTS, Coeur d'Alene, 1926-29
WARREN TRUITT, Moscow, 1929-32
JAMES F. AILSHIE, Coeur d'Alene
1932-35
A. L. MORGAN, Moscow, 1935-38
ABE GOFF, Moscow, 1938-41
PAUL W. HYATT, Lewiston, 1941-44
E. H. KNUDSON, Coeur d'Alene,
1944-47

E. E. HUNT, Sandpoint, 1947-49
ROBERT E. BROWN, Kellogg, 1949-53
RUSSELL S. RANDALL, Lewiston,
1953-56
CLAY V. SPEAR, Coeur d'Alene,
1956-59
MARCUS J. WARE, Lewiston, 1959-62
ALDEN HULL, Wallace, 1962-65
JERRY V. SMITH, Lewiston, 1965-68

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1968 Annual Meeting of the Idaho State Bar

July 4, 5, 6, 1968

Sun Valley, Idaho

JERRY V. SMITH, PRESIDENT
HAROLD L. RYAN, VICE-PRESIDENT
LAMONT JONES, COMMISSIONER
FRANK T. ELAM, EXECUTIVE DIRECTOR

Annual meeting convened at 1:15 p.m. July 4, 1968. Jerry Smith, president:

The annual meeting of the Idaho State Bar Association for 1968 will now come to order. First of all the Reverend John Riley of the First Presbyterian Church will give the invocation.

REVEREND JOHN RILEY: Let us pray. Oh eternal God, Lord of all Nations and Creator of all men, we give Thee thanks on this day of national celebration for this land for its heritage and freedom and ideals. For those who have died to make it free and for those that have lived to keep it free, we give Thee thanks for the beauty, the national resources and prosperity of our nation. On this day we especially ask that the great government of the people, by the people, and for the people should not perish from the land, and as we stand here on the brink of national disaster as a nation, give us wisdom and courage and the ability to act in the right manner. Give us compassion to understand the oppressed and the ability to reconcile the alienated. Strengthen us in our effort to obtain a society of justice and love, order and freedom, and to bless this convention in its efforts. In Jesus Christ our Lord we pray. Amen.

JERRY SMITH, PRESIDENT: Thank you very much Reverend Riley for those words. We have some distinguished guests in our midst and we have some who were invited who did not show up. Governor Samuelson, invited, sent his regrets and wished us well. He said he had some urgent business in north Idaho. Some were ungracious enough to suggest it was the hanging of Scott Reed that was the urgent business in north Idaho. A little while ago I thought I saw Scott Matheson who is the president of the Utah State Bar. Will Scott stand and be recognized please? I also see sitting out in back Dean Menard from the University Law School. Dean Menard, will you stand and be recognized please? We're especially grateful to have among us and quite by accident the Dean of Stanford's Law School, Dean Bayless Manning. Will you please stand and be recognized? I say quite by accident, it was actually by design that he is here at Sun Valley, but it was fortuitous that he was here at the same time the Idaho Bar convention was meeting. As to other distinguished persons, I will attempt to introduce them. It is a little difficult to see back there too clearly, and I don't want to miss anyone. I will introduce them as they come in in the next couple days. I want to say both Judge Taylor and Judge McNichols sent their regrets in being unable to attend. I think possibly Senator Church may be here tomorrow. He was not certain if he could make it or not, but Representative McClure will be here tomorrow. At this time I would like to appoint the

canvassing committee to canvas the ballots for the election of the new commissioner from the northern division. I see Jim Green is here. I would like to name him as chairman of that committee. If Mike McNichols is here I would like him to serve on that committee. Is Blaine Evans here? Is Don Downen here? Neither of them. Jess, I see you sitting there. Would you serve on the committee please?

MR. JESS HAWLEY: Yes I will.

JERRY SMITH, PRESIDENT: If those three gentlemen would meet with Frank Elam right now we can get the votes canvassed and he will explain how to do that. Frank, do you know how many spoiled ballots there were this year?

MR. FRANK ELAM: Well, I don't have that right now.

JERRY SMITH, PRESIDENT: We will have a report on that later. It is always a little difficult to have the attorneys follow the instructions on how to mark their ballots. In the past we have had several spoiled ballots. Next on the program is the report of the delegates to the American Bar Association. As you all perhaps are aware we have in Idaho actually two delegates, one is elected by the members of the American Bar Association who reside in Idaho as their delegate, and the other delegate is the State Bar delegate who is appointed by the commissioners to represent us in the House of Delegates at the American Bar Association. The elected delegate by the members of the American Bar Association is Blaine Anderson, a former president of the Idaho Bar Association and State Bar delegate. The appointed delegate is Ed Benoit who is also a former president of the Idaho State Bar Association and was the president when I was the ice hustler for the Commission. I don't know just how you gentlemen wish to handle this-- which one of you wants to go first, but let's have Blaine give his report first. Blaine Anderson, ladies and gentlemen.

BLAINE ANDERSON: Thank you, Jerry. Ladies and gentlemen. Ed and I would like to deviate from what I guess has been a custom of dividing the report of the activities of the American Bar Association. This is the 91st year of the existence of the American Bar Association and I thought it might be interesting to you to hear a brief history of the organization. A genesis of the American Bar Association was at a meeting of the Connecticut Bar Association in January, 1878. A motion to create a National Bar was made by Sidney Baldwin, a member of the faculty at the Yale Law School and later chief justice of the Supreme Court in that state, and its governor met with unanimous approval on July 1, 1878. A notice of calling a meeting to form a bar association was sent to every lawyer in every state and territory. The meeting was held at Saratoga Springs, New York, on August 21, 1878 to consider "the feasibility and expediency of establishing an American Bar Association" and also signed by fourteen lawyers from fourteen different states. When you consider the transportation facilities of those days, the meeting was remarkably well attended with one hundred members of the Bar present and representing 29 states. The membership agreed by a national proclamation that it had merit and accordingly adopted a constitution and bylaws at that meeting, and desig-

nated the organization as the American Bar Association. The purpose of the first constitution was "its object shall be to advance the sights of Jurisprudence, promote the administration of justice and be uniform with legislation throughout the nation, uphold the honor of the profession of law and encourage cordial intercourse among the members of the American Bar." A number of constitutional committees of the Association were provided for, some of which remain today such as Jurisprudence, law reform, judicial administration under legal procedures known by a slightly different name at this time, legal education, admission to the Bar, and grievances. James O. Broadhead of St. Louis, Missouri, was elected first president, and Sidney Baldwin, the father of the Association was one of the three persons elected to the executive committee. After defining membership qualifications, it appeared the group began its official existence with 289 members. It's interesting again to note that when you think of the transportation in those days that Louisiana appeared at the top of the list with 33 members; New York was next with 32. In the records of the Association there are letters and transcripts made by the many members, lawyers, and judges that belonged to the Association. It is interesting to note in them there is no suggestion that the purpose of the organization was to strengthen or safeguard the position for the privileges of the Bar by any other means than by raising the standards of proficiency and ethical conduct and improving its capacity to render that service to the Bar. There are three eras of the history of the Association. The first was the Saratoga Era, from the period of 1878 to 1902 when the Association was conservatively very active, and also during the same period when the Association rose to national importance. This era of the Association attracted very influential personnel which determined many of the policies which in later years would bring the Association to even greater national promise and leadership. The second era has been dubbed the era of national consent. It is the one from 1902 to 1936. When they ceased meeting at Saratoga Springs and moved from city to city for its annual meetings, thereby extending programs for better laws and better administration of justice. During this period its growth was tremendous. The membership increased sharply from 1,718 members to 29,000, its revenues from \$8,200 to \$128,000. The third era has been called the era of federation. In 1936, the Association completely changed its plans for organization from a fully autonomous group of individuals. It became a limited autonomous group with almost complete control vested in the House of Delegates, with a membership designed to provide able representation of all segments of the profession, which would consist of delegates representing the state and local Bar Association. In May of 1968 the membership of this group grew to 130,000 members, 6,000 more than in the same month in 1967. Its revenues are now approximately \$6 million per annum from all sources. If you take but a moment to reflect, it is more than obvious that the American Bar Association has achieved and does now occupy a position in the national province. Congress calls upon the American Bar Association for counseling and assistance as does the president of the United States, and this has been true for the past 20 years, but with increasing frequency in the more recent years. The American Bar serves you and the general public. In this the 91st year of the history of The American Bar Association, I think it would be appropriate to pay tribute to the Idaho lawyers and judges who have served the Idaho legal profession at the national level

since reorganization in 1936. These men have served with distinction and honor and helped to make the American Bar Association what it is today.

The following have served on the Board of Governors as Idaho state delegates and the House of Delegates: A. R. Merrill, Board of Governors, 1952-1955, state level, 1942-1953; James F. Ailshie, Idaho state Bar from 1937 to 1939; Oliver Haga, state delegate, 1937 to 1942; Charles W. Thomas, Idaho State Bar, 1940 to 1942; Paul J. Hyatt, Idaho State Bar, 1940 to 1943; Honorable E. B. Smith, Idaho State Bar, 1943, 1944, 1946, 1950, state delegate, 1953 and 1964; Paul P. Peterson, Idaho State Bar, 1944 to 1946; Ralph Litton, 1951 to 1953; Louis Racine, Jr., Idaho State Bar, 1953 to 1954; Russell Randall, Idaho State Bar, 1954 to 1955; Willis C. Sullivan, 1955 to 1956, Idaho State Bar; Gilbert C. St. Clair, Idaho State Bar, 1956 to 1959; Honorable Sherman J. Bellwood, Idaho State Bar, 1959-1966. Gentlemen, tomorrow and perhaps the next day I understand that Dennis Faucher, who is the chairman of the American Bar Association's membership committee for Idaho, will have a booth in the lobby with materials and application blanks for membership. We hope that you will stop by and find out what the American Bar Association can do for you. Thank you.

JERRY SMITH, PRESIDENT: Thank you, Blaine. And now we will have Ed's report.

MR. ED BENOIT: First of all I bring to you greetings from Lockland, Oklahoma, where ten days ago Henry Benoit, Jr., was born. I am not going to read this whole book but I thought you might be interested to know that when you walk into a meeting at the House of Delegates you get a book with some reports and then they are supplemented from time to time. I think there are 101 reports here which were covered at meetings of the House of Delegates in February. However, I think that two of the most concern to the lawyers of Idaho and certainly of most interest are, number one, the Keeton-O'Connell situation which you know is the proposed method of awarding people that are injured in an automobile accident regardless of fault. The committee report originally was a pretty strong condemnation of the Keeton-O'Connell Plan. However, the committee did report what was happening. I think that some of you might be interested in a brief summary of the histories of these. On July 10, 1967, Chairman James Fellars announced that an inquiry into the business practices of the automobile insurance industry was under consideration, and in fact had been launched. On February 20, 1967, Senator Joseph Baines from Maryland, Democrat, in his opening remarks in introducing the National Court System Act pointedly criticized the commission's bylaws, which of course pertained to automobile limitations. The Federal Trades Commission has been requested to conduct an inquiry into alleged abuse in the industry. The House anti-trust committee is making a report which among others is the insurance industry's exemption to the Federal anti-trust laws. Senator Dodd of Connecticut proposed a federal motor vehicle insurance guarantee corporation and in September, 1967 Governor Rockefeller of New York formed a committee on the compensating of victims of automobile accidents. In September, 1967 the Massachusetts House of Representatives suddenly and surprisingly passed by a sizable majority a bill providing for the replacement of the tort system by the Keeton-O'Connell plan. This was defeated in the Senate,

as on and on it goes in other states. Now if you will recall following the defeat of the Massachusetts Senate Bill there was quite an article in Time Magazine which attributed that to the activities of one segment of the law profession. The article criticizes it as doing it only as a matter of self interest. I think that was the so-called plaintiffs' bar and I think it was unjustly criticized, because I feel many times these so-called members of the defense bar have just as many reservations about the Keeton-O'Connell Plan as do plaintiffs' attorneys and so cooler heads prevailed, and a resolution was adopted by the House of Delegates which reads in substance as follows: "In furtherance of public interest, and believing firmly in the adversary system and the preservation of other varying aspects of our legal system, the American Bar Association proposes a comprehensive study and investigation of the problems and inherent and prompt disposition of automobile accident claims." And the resolution goes into more detail. I think from the public relations man standpoint the substitute resolution was wise. I think the committee that the American Bar Association has presently appointed is composed of very competent men and will come forth with reports which probably could be acceptable to members of the American Bar Association. What of course affects us more than anything, and that is the so-called Reardon report. We were in Chicago, and from reading the Chicago Tribune you would think the American Bar Association was attempting to padlock the door of every newspaper in the United States and of course often referred to as the Reardon committee. Actually, the Reardon committee is the advisory committee on fair trial and free press. Now, in spite of all the publicity about this committee, the Reardon Report actually was one of five committees or six committees on the American Bar Association's project on the minimum of standards of criminal justice. In other words, it was merely a subcommittee. There were many reports put out of course on speedy trial and pretrial releases, etc. However, because of the interest of the newspapers in the Reardon Report that was practically all you read about in the newspapers. Now that debate on the acceptance or rejection of the Reardon Report was scheduled for one afternoon. Representatives of the press were invited and also members of the American Bar Association to present their position. The balconies which housed the television cameras were full and you would think by looking at it it was one of the most important debates ever to have taken place in the United States. Justice Reardon gave an excellent report as chairman of his committee. CBS and the National Newspaper Service also gave excellent reports on their position. The position of the newspaper people, the news media, was in consideration of adoption of the Reardon Report, and felt it should be postponed until the August meeting of the House of Delegates in Philadelphia. I want to say I think that when Blaine and I went to Chicago together from our information decided to both support a delay, but after really hearing the work that has gone into this report and the research that has been done and from the presentation of it we felt there was no need to delay, and so Blaine and I both voted in favor of the Reardon Report. Now just briefly about the Reardon Report. A number of months of study went into this, and the basic problem to start with was our Canon-20 professional ethics which cover newspaper publications by lawyers with pending litigation, and they found that it has been in that same form for many years and

had never been enforced and in fact in the end study they discovered one case which made a passive reference to it. So they decided they had better do something about it. In short, the committee recommended new language, that states the duty of the lawyer in refraining from disseminating information or opinions reasonably likely to interfere with pending or eminent criminal trial with which he is associated or grand jury or other pending investigations. The lawyer associated with the prosecution for defense is not to talk about prior criminal records, confessions, or admissions, nor the performance of any examinations or tests or if the defendant refused to take them or the possibility or feasibility of the defendant's possible guilt or innocence. He is not to approve of the disclosing of such information on such matters as facts or circumstances of arrest, the identity of the arresting officer, the seizure of physical evidence, the nature of the charge, whether the accused denied it. That portion of the Reardon Report alone would affect us as practicing lawyers and that is the only portion which the legal profession itself could implement, and that could only be done when the Canons are revised and further could only be done when it is implemented here in the State of Idaho. The committee further recommended that jurisdiction should be left within the law enforcement agencies as to their internal regulations and that they should impose similar restrictions on their personnel, but if they fail to do so they propose that such regulations be made effective by rule of the court or legislative action. The balance of the recommendation has to do with courtroom procedures which affect the trial and would give an indication of limited sanctions in the case of abuse. And I would like to emphasize that actually this is how all this publicity of the Reardon Report got started. The Reardon Report has done nothing to affect the legal profession and news media in Idaho. The Reardon Report only sets forth recommended standards. There will be no effect in any State of the Union unless it is implemented or enacted by statute or courtroom action in that particular state, and I don't know of any action that is pending in Idaho today concerning the Reardon Report. There has been a special committee report on this matter of free press and recently letters have been sent to all Bar Association presidents, and in that letter it was proposed that the Association should appoint committees of five to seven lawyers with the authority to assist in effectuating a recommendation to the House of Delegates, encourage the attendance at the Bar meetings, protect the rights of fair practice, pretrial statements, and as part of their responsibility encourage the formation of joint bar-press committees to seek voluntary adequate probes and so on. We have had a bar-press committee in Idaho functioning for several years, but in this letter the writers made the following statement: "How successful may the proof be in accomplishing the objectives will depend a large measure on the content of how fully the press and broadcasting media have given the jurisdiction that we would like on it." To me the matter of the problems raised by the Reardon Report is a matter of common sense to be resolved by the people involved. Tomorrow noon I have to go to the Ponderosa Inn at Burley, Idaho. The Idaho Press Association is meeting and they have asked for someone to come down and give them a complete summary of the Reardon Report which I of course do not have time for today, but they asked a member of the State Bar to meet with them and I thought we should and I know that I am

going to take the position that I support the American Bar Association and the Reardon Report, and I hope that I will by some explanation be able to clarify some of the misunderstanding that has arisen. For those of you who are further interested in the Reardon Report, of course I recommend that you read an article in the April, 1968 volume of the American Bar Association Journal written by Justice Reardon. It very simply explains the report itself and expells much of the criticism of it. If you are interested further in the Keeton-O'Connell problems, a recent article in the American Jurist Society Journal carried a complete analysis of the Keeton-O'Connell Report with also pros and cons and arguments by the presidents of insurance companies and automobile companies and lawyers, and I do think that is something that can affect us and I recommend that you read it. If you read anything in the paper that might come before the House of Delegates and would have a suggestion, Blaine and I would like to know it because after all we represent you and I would like to say that I feel privileged in so doing. Thank you.

JERRY SMITH, PRESIDENT: Thank you very much, Ed and Blaine. I was interested in Ed's comment about the position that he took on the Reardon Report prior to hearing Judge Reardon Sunday afternoon. I was there and watched the change come over them as Judge Reardon very persuasively put his case and he is very persuasive. Ed also mentioned that there has been a bar press committee active in our Bar Association in Idaho for sometime, and is an active committee. The vice president and the junior commissioner are members of that committee as are Paul Ennis and Joe Imhoff, and also on the committee are the judges of the fourth judicial district and I think Judge McFadden, Judge Spear, and Judge Smith of the Supreme Court have also sat on that committee from time to time. Ed mentioned something about the adoption of voluntary standards. We had our last meeting of that committee in Coeur d'Alene in May and many members of the press were there and at that time it was decided that we would attempt to adopt some voluntary standards by which the press and Bar would be guided in this area. The commissioners themselves determined some time ago that we would make no effort to adopt or implement the Reardon Report either by statute or court rule, that we would await the report of the ethics commission that is making a study and is scheduled to report in February. I have noted that during the time that Ed and Blaine were giving their reports that Jack Diehl, the president of the Nevada State Bar Association came in. Would you stand and be recognized please, Jack? Also Chief Justice E. B. Smith, a past president of the Bar. Judge, would you stand and be recognized? We always appreciate the activeness that Judge Smith has taken in the Bar activities and I see there my good friend, Gilbert St. Clair. Would you stand and be recognized? He served as president of the organization and, as Blaine stated, a delegate to the House of Delegates as representative of the state. I will move the program on now and ask Clark Gasser to come forward and introduce the next speaker. Mr. Clark Gasser.

Mr. Gasser's introduction and Mr. Smith's address have been deleted but copies are available in the office of the Secretary upon request.

JERRY SMITH, PRESIDENT: Thank you very much Cullen. That was very entertaining, and very good advice. We hope that you do enjoy your stay in Sun Valley, and hope that you will come back again.

At this time we will have a coffee break. We will take a fifteen-minute break.

JERRY SMITH, PRESIDENT: We will call the session to order at this time. Jim, I gather at this time the canvassing committee is not yet ready to make their report, so I will call Blaine Anderson to introduce the next speaker, Blaine.

Mr. Anderson's introduction and Mr. Fuch's address have been deleted but copies are available in the office of the Secretary upon request.

JERRY SMITH, PRESIDENT: Thanks, Bill, I am certain that we found many ways to improve on our billing system. Is Mr. Jim Green here?

MR. GREEN: Yes.

PRESIDENT: Is the Canvassing Committee ready to make their report?

MR. GREEN: The Canvassing Committee is ready to report, Mr. President.

MR. PRESIDENT: Would you come forward and make that report?

MR. GREEN: Mr. President and Gentlemen, the report of the Canvassing Committee is that Mr. Sidney Smith has been elected your new Commissioner from the Northern Division by a majority of the votes cast.

PRESIDENT: Sid, I think I see you sitting out there. Would you like to come up and say a few words before we continue with the program?

MR. SID SMITH: Mr. President and fellow members of the Bar: We have a great tradition in Idaho with our integrated Bar, the fine people that we have had and do have on the Commission and we will work very diligently to continue this. I would like to salute them. I salute Jerry. I am only pleased and honored to be part of the team and I will do my very best to fulfill this position. I would also like to salute my most loyal opposition and friend, Pete Wilson. He is a great guy and I know he would have done a great job for you as well. Thank you very much.

PRESIDENT: Thank you, Sid. I will say to you what Judge Oliver said to me upon my election. Congratudolence. At this time I would like to call on Mr. Jess Hawley to introduce our next speaker.

Mr. Hawley's introduction and Mr. Radcliffe's address have been deleted but copies are available in the office of the Secretary upon request.

PRESIDENT JERRY SMITH: I had the pleasure of playing golf with Cy several weeks ago in Twin Falls and he is not a scratch golfer, believe me. I think his handicap is about one. Thank you very much, Cy. We had

a panel discussion scheduled and time is growing, so rather than a discussion, I thought perhaps we might just throw it open to questions and let the three speakers, Mr. Smith, Mr. Fuchs and Mr. Radcliffe, answer questions that anyone might have.

ED BENOIT: One question—supposing you have a partnership of four and only two want to go into Keogh.

MR. RADCLIFFE: Ed asked the question, suppose you have a partnership of four and only two want to go in. In the first place, contributions in Keogh, and any kind of partnership where you share all expenses, and you have a formula for dividing your net, in a partnership, two want to go and two don't. First of all, the partnership itself is going to write out the check that sends the money in for the two that are participating. The fact that the other two want to stay out is something that has to be resolved within the organization because when the monies go in for the two to be put in their retirement plan, it is not at all difficult. Let's say you and Jess are going to be partners. The two partners that want to go in, and you are going in for the \$2500.00. It is not difficult for a partnership to also draw a check for \$2500.00 to the other two and let them take the cash and you two send yours into the custodial bank. The only thing that has to be resolved within the partnership is this: The employees cannot be penalized because these two partners do not want to go in. If you two decide to go in for 7%, the employees have to be picked up at 7%. Does that answer your question?

ED BENOIT: Yes.

JERRY SMITH, PRESIDENT: I think that Mr. Grasmick has a question.

MR. GRASMICK: Could the other two partners later on pick this up and go in on Keogh if you have two partners at the present time that want to go in and later on the other two partners decide they want to go in, can they also get into it?

MR. RADCLIFFE: Yes, I have already had a setup just like that. This happens to be a clinic of doctors, two of them, for very special reasons of their own, did not want to go in, but this year they decided that they wanted to go in and there was no problem at all.

JERRY SMITH, PRESIDENT: We are going to draw for the drawings now.

(DRAWINGS HELD)

JERRY SMITH, PRESIDENT: I want to take this opportunity to thank our friends, Cullen Smith, Bill Fuchs and Cy Radcliffe, for the great program they presented this afternoon. We stand adjourned at this time to 9:00 o'clock A.M. tomorrow morning, July 5, 1968.

9 A.M., JULY 5, 1968

JERRY SMITH, PRESIDENT: The annual meeting of the State Bar Association will now come to order. I have a couple of announcements to make at this time. The George Washington alumni breakfast will be held at 8:00 o'clock a.m., tomorrow morning in the Redwood Room in the Lodge and all George Washington alumni and friends are invited to attend.

I note in our audience this morning the newly elected president of the Montana Bar, Mr. Don Nash. Will you stand and be recognized, Don? Do you have anything you wish to say?

MR. NASH: Only that it is a real pleasure to be here. We will be holding our annual State Bar Convention at Bozeman, Montana, the home of the Bobcats, and you will certainly all be welcome.

MR. SMITH, PRESIDENT: I just came from Helena, where I attended their Bar meeting and they showed me a fine time and I hope we can reciprocate in time with you Don.

I also notice that George Bell is out in the audience. He is a professor at the University of Idaho and who has written the Idaho Handbook on Evidence. Please stand and be recognized, George. At this time we will ask Dale Clemons to introduce our next speaker, Dale.

Mr. Clemons' introduction and Dr. Staton's address have been deleted but copies are available in the office of the Secretary upon request.

(10:30 we convene.)

JERRY SMITH, PRESIDENT: The coffee break was through the courtesy of the IBM people and they have an IBM display set up over in the Lodge and invite you to stop by and look at it. At this time I would like to call on Bill Gigray to introduce the next speaker.

Mr. Gigray's introduction and Justice Traynor's address have been deleted but copies are available in the office of the Secretary upon request.

JERRY SMITH, PRESIDENT: Thank you very much, Judge Traynor. Very well done, and it certainly was an honor and a privilege to have you with us this morning. Now, Judge Smith, you have something you want to announce at this time?

JUSTICE E. B. SMITH: Mr. President, and members of the Idaho State Bar, I am going to talk very briefly about a project that has been very dear to the hearts of all the judges and lawyers of the State of Idaho for a long time. Commencing about 1963, the Legislature very graciously suggested that they would like to have the quarters occupied by the Supreme Court in the Capitol Building. At that time I was Chief Justice, that was six years ago. I commenced to correspond over the nation to see whether I could find plans for a Supreme Court building and I could not find any. Nobody seemed to have any, but we kept it in mind, we never dismissed the idea, although we believed it would never be accomplished for many, many years. Then Governor Samuelson was elected Governor, and at that time he took out the time to write a letter to the Supreme Court

stating that he would like to meet with the members of the Court about various things and talk over different matters which might be of interest to the Executive Department and the Judiciary. And he met with the members of the Supreme Court on December 17, 1966, just before he was to take over in January, 1967, and the first thing that he said was, "This Supreme Court has got to have a new Supreme Court Building." Well, the figure of speech just knocked us all over. We didn't know what to say but were glad it was said, and then he included that in his message in January of 1967. The Court immediately appointed a Building Committee also to work with the Court and representing lawyers from the northern to the southern part of the state, also members of the laity who were very good businessmen, and then we immediately tried to find out how much it would cost to erect a proper type of building and we arrived—with the help of architects, we arrived at a sum of \$2,000,000.00. That part of it was taken care of by Governor Samuelson backing up a recommendation for \$2,000,000.00 for this project, and with a \$1,800,000.00 proposal out of the Government Building Fund for the Court. Now, this came out of the present Building Fund. We finally selected the firm of Dropping & Kelley as the architects, and we arranged a meeting with the architects in May of 1967. There were many, many drawings submitted by the architects. Our committees met with the State Government Committee over a long period of time very frequently, and the last meeting was Friday, a week ago, at which time the final approval of the approving agency, and which in this case is the Supreme Court. For instance, this went step by step. The general exterior appearance and plans of the building, that was first. That had to be approved first. That was approved by the committee, and I might say right here that the Supreme Court took the view that this building belonged not only to the people, but it belonged, I won't say it belonged, but the Bar itself had a very, very deep interest in it, more so than the judiciary. The judiciary comes and goes, but the Bar is here permanently. And that's why we called on representatives of the Bar, so you could all be represented in this tremendous project. Now, the general plans of the exterior of the building being first, and then comes the plans of the library aspect of the building and then the courtroom and then the judges' chambers and the court administration chambers and the clerk's office. All of those had to be set out in great detail. There were committees working constantly with the architects. Then the final pull on the interior arrangement of the courtroom, and that was the real thing. The architects called in experts from Portland on that, and I believe there has been at least 40 or 45 plans drawn with reference to that courtroom, and studied, looked at, put back, and the arrangements rearranged several times, and court chambers and robing arrangements rearranged several times, and the court chambers and robing rooms and the Bench, especially the Bench in the courtroom. I think it was taken to pieces and rearranged a number of times. Those are some of the problems we had during the last 14 months, and during all of this time we have had one of the most delightful, patient men I have ever known working with us, and that is Mr. Dropping, member of the firm of Dropping & Kelley of Boise, and he is here with us to try to explain something of the Supreme Court Building which is now a dream come true. And in regard to this fall, we hope that the contract will be let with the work to begin some-

time next fall. And I believe Mr. Dropping has some pictures here to show you also. Mr. Dropping.

MR. DROPPING: Thank you very much. It's great to come on after someone has said all the things you wanted to say. Thanks a lot, Justice Smith. Last evening I had the pleasant experience of discussing the courtroom with a former Chief Justice of the State of Idaho, Raymond Givens. In the course of our conversation, he said, "Gee, it's too bad you have to have a library in the basement." I don't know where he got this information, but the library is not in the basement. The library is very prominently on the first floor, and the portion of the basement is going to be used for the library staff. I have the plans here with me and hopefully those of you who are interested will come down and I will be glad to answer any questions and go over them with you very briefly. The building consists of three floors, the ground or basement and the first floor and the second floor. The ground floor, or basement, is basically storage for the library and storage for the clerk's office and so on. The first floor is almost entirely the library, with the exception of the clerk's office, and the entire second floor is devoted to the Supreme Court, six offices for the Justices and, of course, one office for the Chief Justice, and in anticipation, of course, in the future that you will have seven Justices in place of five as you presently have. Therefore, this is in our expansion, and each of these offices will be equal in size and facilities. In addition to the offices of Justices, of course, there will be the Supreme Courtroom.

I would like to answer any questions rather than just stand here and bore you with concrete and steel.

MR. GLENN COUGHLAN: What is the exterior of the building to be built out of?

MR. DROPPING: It will be faced with marble, and it is our plan at present to use a marble quarried here in the state over near Idaho Falls. Unfortunately I don't have a sample here with me at this time.

MR. COUGHLAN: Will that be carried out inside, also?

MR. DROPPING: Just part of it. Any more questions? If not, I would invite all of you to come front and examine these drawings and I will be happy to answer any questions that you might have.

JERRY SMITH, PRESIDENT: We will have the drawing for these books and then we will recess till 9:00 A.M. tomorrow morning, July 6, 1968.

July 6, 1968—Continuation of the Annual Idaho Bar Association Meeting.

JERRY SMITH, PRESIDENT: Good morning, gentlemen. We will call the general session to order at this time. This is the time scheduled on the program for announcements, but unless there are some particular announcements to make at this time, I will ask Justice E. B. Smith if he would like to give us the report of the Judicial Conference at this time.

JUSTICE E. B. SMITH: Mr. President, the 1968 Idaho Judicial Conference met Wednesday, July 3rd, 1968, at Sun Valley. Out of 24 district judges,

20 were in attendance, together with three members of the Supreme Court. Preliminary reports were made by Martin Huff, the Clerk of the Supreme Court, and these reports had to do mainly with the present condition of the district court's legislation appropriations of monies, the condition of the retirement fund as of July 30, 1968. The Chief Justice, Justice McFadden and Justice Spear made a report relative to the progress of the new Supreme Court Building as authorized by the 1967 Legislature to the effect that all basic plans were now approved and that there were funds available for the construction of the building, with the bids to be let by early fall 1968. Judge Oliver, President of the Idaho Trial Judges Association, presided over the conference. Judge Oliver made certain recommendations relating to the keeping of district court minutes and Judge Prather recommended adoption of a proposed appellate rule relating to preparation and binding of the reporter's transcript in use on appeal and also led the discussion relating to the printing and distribution of worthwhile opinions of the district court judges. Dr. Brockelbank and Judge Gus Carr Anderson presided and led a panel discussion relating to the Reciprocal Enforcement Support Act, pointing out certain procedural aspects which arise under the present Act as regards enforcement. Judge Anderson spoke on the procedures in Wisconsin and which his district has adopted. Under such procedure the Clerk of the District Court on the 15th day of the month reports delinquencies in child support payments and by the 20th of the month orders to show cause are directed to the delinquent defendants or obligees. He stated that the district has experienced a very good result under this system and recommended that it be adopted in other districts. Judge Scoggin and Judge Oliver suggested certain amendments to the present law. Attorney James Lynch explained the three proposed amendments to the Idaho Constitution having to do with court reform and suggested that the Conference go on record as being agreeable with the same. Howard Manweiler of Boise, one of the Public Defenders in Ada County, reported to the Conference the progress that was being made in Ada County, during the past year. The Public Defender pointed to the increased work load of the area. Judge Ray Durtschi submitted a technical presentation relating to the Uniform Post Conviction Act enacted in 1967. He touched upon procedural aspects in the Idaho law and interpretations of similar acts by courts of other states and that of the United States Supreme Court. Judge Towles spoke on the subject of the amount of counsel fees in cases of an indigent defendant accused of criminal offenses. This includes the matter of approval of the amount of attorney fees by senior district judges under the minimum schedule enacted by the 1968 special session of the legislature. He also pointed out that there should be some kind of thought given by the districts of the area for the purpose of obtaining uniformity for the amounts of attorney's fees allowed in the indigent cases. Judge Cogswell presented an interesting and technical report relating to the certain peculiar aspects of cases brought under the Federal Employer's Liability Act. This covered the aspects of that Act under the heading of federal statute, purpose of law and venue, contributory negligence, assumption of risk, causation, jury instructions, and the case laws. I would highly recommend it to any lawyer having an employer liability case or one which may be in speculation, that he obtain a copy of this most interesting and instructional paper. A discussion was had in

relation to reports by Mr. Lee, the Administrative Assistant to the Courts, with certain revision suggestions addressed to the Chairman of the District Judges to draft and submit certain changes. Judge Gilbert Norris submitted a paper relating to lower court reorganization. At this time the business session of the Idaho State Trial Judges recessed on Thursday, July 3rd, 1968.

Judge Oliver has asked me to make this report although he would ordinarily make it. Judge Towles was named as official delegate of the Association to attend the meetings of the American Bar Association to be held in Philadelphia in the early part of August, 1968, and Judge Gilbert Norris was named the Association's official representative to attend the Tri-State Seminar of the State Trial Judges to be held in Rapid City, South Dakota, the latter part of August, 1968. Judge Cogswell was named the alternate. The Association went on record as favoring the adoption of the three proposed amendments to Idaho's Constitution as sponsored by the Idaho State Bar and relating to court reorganization. The Association adopted a resolution urging amendments to the Uniform Support Act fixing jurisdiction in the county of the obligee. The Association adopted a resolution which suggests that Idaho Judicial Council make a study and recommendations relating to judicial salaries. Officers of the Idaho State Trial Judges Association elected for the ensuing year, Honorable J. Ray Durtschi, President, Honorable Judge Watt Prather, Vice-President, Honorable Judge Rasmussen, Secretary-Treasurer. Adjournment followed.

PRESIDENT JERRY SMITH: Thank you very much, Judge Smith, for that excellent report. Now, for the next report, that is from the Prosecuting Attorneys Section. Is there anyone here to give that report?

MR. ELAM: No report filed.

PRESIDENT SMITH: We will pass that report and go on to the committees. The first committee to report is the Adoption Committee, W. E. Smith, Chairman. He is not here either. Is there a report filed?

MR. ELAM: No report filed.

PRESIDENT SMITH: No report filed. The next committee to report is the Attorney-Physicians Relations. I guess that I am Chairman of that. I might say I don't even know why Idaho has this committee. It has never met. It almost met once when I was on the Commission a few years ago. I think Jim Lynch, and at this time Jim was Secretary, and I believe Armand Byrd was Secretary to the Medical Association, and we met somewhere in a coffee shop in Boise and decided it might be a good idea if this committee would meet and that possibly we could all meet in Lewiston because the weather was so nice there and the golf courses were in pretty good shape, and the President of the Medical Society at that time was a neighbor of mine who lived in Lewiston. It so happened one day I ran into him on the street and, well I'm getting ahead of my story. First, let me explain that Jim came to us and said as a result of this meeting in the coffee shop that they wanted to have a meeting with us, and so we said, fine, we will set it up. So we did set up a meeting in Lewiston and had it

scheduled, and as I say I ran into my neighbor on the street one day, and he said to me, "What is it that you fellows want to meet with us about," and I said, "I was given to understand that it was you that wanted to meet with us," and so we were never just real clear on what Jim and Arnie talked about that day and how that arose, and neither one of them have ever confessed. Well, anyway, we have never met, so we have nothing to report.

The next committee report is the Bar-Press Committee, and Mr. Ryan, our Vice-President, is Chairman of that committee and that has been an active committee.

MR. HAL RYAN: Thank you, Jerry. Members of the Bar, your Bar-Press Committee has had two formal meetings during the year. The first meeting took place in Boise in the fall of 1967, and the second meeting was held May 11, 1968 at Coeur d'Alene.

Your Bar-Press Committee has only been formed for a few short years and consists of representation from the Supreme Court, the District Judges, and the Idaho Bar Association, meeting with various members of the press. Heretofore, it has been policy to merely sit down and discuss problems of the press, the Bench and the Bar.

During the past year, the Reardon Report on "Fair Trial Free Press" became widely circulated and was adopted by the American Bar Association in Chicago in February, 1968. This report has brought the functions of this committee into sharp focus. Your Committee at its meeting in Coeur d'Alene in May had the opportunity to hear a historical report from Mr. Howard Cleavinger, Editor-Manager of Spokane Daily Chronicle on the manner in which a Bench-Bar-Press committee adopted a state of principles in the State of Washington. Your Committee found this to be very informative. It was noted that the basic difference between the statement of principles adopted in the State of Washington, are that the former would be mandatory with contempt proceedings provided for violations, while under the latter it is merely an adoption of voluntary guidelines. There was unanimity at the Coeur d'Alene meeting that this committee recommend to the Idaho State Bar and to the Supreme Court of Idaho, that the Supreme Court of Idaho do as was done in the State of Washington, and that is, appoint a statewide committee consisting of representation from the State Supreme Court, the District Judges Association, the State Magistrates Association, the State Bar Association, the Peace Officers Association, the Prosecuting Attorneys' Association, the Idaho Press Association, the Associated Press, the United Press International, together with perhaps other press media, to meet at the call of the Chief Justice of the Supreme Court to give further study to the question of whether or not in Idaho the basic tenets of the so-called Reardon Report should be followed and adopted, or whether or not a written voluntary statement of principles of the Bench-Bar-Press of the State of Idaho, together with guidelines for reporting of criminal proceedings, juvenile court proceedings, civil proceedings and public records should be adopted in Idaho along the lines and similar to that as has been done in the State of Washington.

The Bench-Bar-Press Committee in the State of Washington has done much pioneering work in this area and has existed since 1962 and adopted the Washington statement of principles prior to the publication of the Reardon Report. It was felt by your committee at its meeting in Coeur d'Alene that the statement of principles as adopted in the State of Washington deserves serious study and consideration in Idaho.

It therefore would be the recommendation of this committee to the Idaho State Bar and to the Supreme Court of Idaho that through the Supreme Court of the State of Idaho, that representatives from the various concerned associations be appointed on a Bench-Bar-Press committee to study the formulation, recommendation, and possible adoption of a statement of principles of the Bench-Bar-Press together with guidelines for the reporting of criminal proceedings, juvenile proceedings, civil proceedings, public records.

MR. JERRY SMITH, PRESIDENT: Thank you, Hal. Now if you would make that in the form of a motion, and if there is no objection from the floor, we could possibly adopt that at this time.

HAL RYAN: I will so move.

MR. GENE THOMAS: I will second it.

JERRY SMITH, PRESIDENT: Are there any objections to this procedure from the floor. If not, all in favor, say aye. Any opposed? Unanimously adopted.

Next committee to report is the Communist Tactics and Strategy Committee. Z. Reed Millar is Chairman and lone member of that committee. Is there any report?

MR. ELAM: He reports that there are no matters to report.

JERRY SMITH, PRESIDENT: Next committee to report is that of the Continuing Legal Education Committee, Lon Davis, Chairman, and I understand Tom Nelson is here to give that report.

TOM NELSON: Mr. President, on behalf of the Continuing Legal Education Committee I submit the following report.

Since the last report of your Continuing Legal Education Committee, given at the annual meeting of the Idaho State Bar Association at Coeur d'Alene in July of 1967, the Committee has conducted two institutes.

On September 28 through 30, 1967, the Committee presented a two and one-half day program on the Uniform Commercial Code in Boise, Idaho, which was attended by approximately 475 Idaho lawyers, accountants and business people. This was without question the largest law institute ever presented by the Idaho State Bar Association, and was also the most successful from point of view of education and from point of view of finances. It also demonstrated the desirability of cooperating with related professions and businesses in the presentation of law institutes in order to

create a better understanding of the problems of lawyers and business, and a more cooperative atmosphere between the professions.

The medical-legal program presented in Boise on April 3, 1968, was perhaps the most professional program that we have presented to date and was very highly praised by those who attended. While the date of the program interfered somewhat with the attendance, the program was very successful and contributed greatly to the education of the practicing Bar. It was jointly sponsored by doctors and lawyers, and your Committee feels that a great deal was accomplished in the relationship between the two professions.

The financial picture of the Continuing Legal Education program of the Idaho State Bar is very encouraging in view of the success of the 1967 programs. Those programs generated a total income of \$22,605.71, making the continuing education program fully self-supporting. As a result, your Committee feels that the continuing legal education of the Idaho State Bar Association can be expanded, and more and better programs will be a result from this fine participation by the Idaho Bar.

The Fall, 1968 program to be given by your Committee is a program studying the effects of the new Idaho State Securities Law, together with the Federal Securities Laws, upon Idaho corporations. The program will be given twice, once in Moscow on October 11 and 12, which is Homecoming Weekend, and once in Boise on either October 5 and 6 or November 1 and 2. Both weekends are major football game weekends. The program should be very instructive in an area of law which has changed radically in the recent years. Your Committee feels that it is imperative that Idaho lawyers have the benefit of continuing legal education in this area.

Your Committee proposes to conduct several workshops on the Uniform Commercial Code during the winter of 1968-69. These programs will be a practical application of the earlier program and will be directed primarily at the problems being faced by the local practitioners in working with the Uniform Commercial Code. These workshops should be very effective in helping lawyers with the practical problems brought about by the Uniform Commercial Code.

If any members of the Bar have suggestions as to programs they would like to see sponsored by the Committee, or materials published for dissemination to the Bar, we would appreciate your forwarding your suggestions to a member of the Continuing Legal Education Committee.

MR. JERRY SMITH: Thank you, Tom, for the report. I think that the Legal Education Committee has done a great job. The next committee to report is the Criminal Law Committee. Don McClenahan is Chairman.

MR. ELAM: Mr. McClenahan reports that he will not submit a report.

MR. SMITH: No report from the Criminal Law Committee? Next is the Committee on Court Modernization, James Lynch, Chairman, and he is here to make a report.

JAMES LYNCH: President, and Ladies and Gentlemen, my report is fairly short because I left all of my notes in Boise as well as my materials.

As most of you are well aware, the Bar, since 1962 when the people adopted the constitutional amendment calling for legislation to change the court system, we have been pretty active in adopting court modernization procedures for both the lower court and the district and Supreme Court. We, as you know from last year's meeting in the Legislature that preceded that meeting, we were able to pass a great deal of legislation, including a lower court modernization package that the Governor vetoed, and as a year ago the Bar went on record as in favor of going back and having the Bar sponsor the same package again with some possible minor modifications and try and get it through the Legislature and get the Governor's signature this year, and that is exactly what we intend to do. We are going back for another round. Now the last session of the Legislature, as part of this package, passed two House joint resolutions, which two we are not sure, but we will get together on it. Well, briefly, one of them allows the Judicial Council to do just exactly what it has been doing in the last three appointments of District Judges and that is to make recommendations in the case of vacancies to the Governor, which are binding upon him in that he must select one of the candidates out of the number between two and four. The amendment also allows the Legislature to enact laws in other areas concerning the appointment of certain officers in case of vacancies. The other legislation which is quite important that it be passed by the people, is the resolution or the constitutional amendment giving the Judicial Council the power to discipline and remove judges and provide another system for disciplinary removal other than impeachment by the Senate, which has been the present situation up to now, under our present Constitution. The Bar has sponsored both of these House joint resolutions, and in fact, they are our responsibilities, as I see it, in order to carry the message to the people to get it adopted this fall. So, it boils down to the fact that this committee really has two responsibilities. One, to go back and get that lower court reform package adopted in the Legislature, and the second is to go out and get the two constitutional amendments passed, preferably by a good vote of the people. Of course, in order to do this in both instances, but particularly in the case of the constitutional amendments, we are going to need the cooperation and assistance, and frankly, a little bit of work and time of almost every member of the Bar of the State of Idaho. There are a total of nine constitutional amendments on the ballot. Of course, this is a regular general election with all of the attention drawn to that. It's going to be very difficult unless we make a major effort to draw attention of the people to these two worthwhile constitutional amendments to get their affirmative vote, and especially in among so many other subjects. Now, I think before I go on there is one other idea that ought to be put to rest. More often than the Scriptures I hear attorneys quoting the concept that lawyers have no influence. They don't have any influence with the members of the public, they don't have any influence with the members of the Legislature, and what is worse than that, attorney-legislators don't have any influence inside their own halls. I don't know where this concept originated from. I always looked on it with some suspicion as a young attorney just admitted to the Bar. It was always my thought, if you could not exert a little influence

by clearly explaining what is involved in a piece of legislation, that maybe you should not pass the Bar. But the last couple of years I have had a little experience in lobbying for some Bills and some experience in working in citizen conferences, and all of the evidence that I have seen indicates that, No. 1, members of the public do want to know what your recommendations are, and they do respect your opinion, and that members of the Legislature do respect the opinions of the attorney, and we can do just about anything that we undertake to do, and consequently, I think that if you will all cooperate with the members of this committee in the coming months, we can pass these constitutional amendments, we can pass these bills in the Legislature, and we can go on and pass a lot of other programs that the State Bar may want to get behind. I feel that we are going to need a great deal of assistance and in order to not make it too much of a burden, the members of the Committee and myself are going to work on the preparation of some material, including a pamphlet which will summarize what these constitutional amendments will do. It will also help summarize what the lower court reform program does, but believe me, if we don't get your assistance on this thing we're not going to be successful in either area. It's the Bar's program, and I think if we get out and make an effort, make speeches, attend Rotary Clubs, and do some of these other things, we can get these constitutional amendments passed. Thank you.

JERRY SMITH, PRESIDENT: Believe me, Jim has done a yeoman's service on this committee. He has really devoted a lot of time to the committee and work. The next committee to report is Discipline Committee. Most of that report will be carried in the Secretary's report so unless you want to specifically state something I will pass over it. I would report that there was one complaint brought under Rule 177, which is the Competency Rule, and it was subsequently dismissed.

The next Committee is the Examining Committee, and that too will be covered by the Secretary's report. That has to do with admission and bar exams.

The next committee is the Fee Schedule and Economics Committee, Eugene Thomas, Chairman.

EUGENE THOMAS: The Committee on Economics of Law Practice makes this report to the Board of Commissioners and to the members of the Idaho State Bar.

There is at least one proposed amendment to the fee schedule from a District Bar Association. I refer to the Pocatello Association and advise that your committee has reviewed it. We favor the specific recommendations there made; that is, the several recommendations made for changes in particular fees discussed in the present schedule.

In reviewing the Pocatello Bar's suggestion it also became evident that the sense of the Committee is to favor general upward revision of the hourly rates to the end that fees might be flexible enough to move with inflationary changes. At the lower level, the \$10.00 per hour figure is not adequate compensation if the attorney has done a good, solid hour's work for his client. During the first two years, such time should bring no less than \$15.00,

and on occasion \$20.00 and \$25.00. This will not place the cost of service out of line or out of reach, and we know that all young practitioners will be quick to absorb time that is spent in self-education for the purpose of developing at least minimal expertise; also, the beginning lawyer knows that false starts and wasted hours are his loss, not his client's. Accordingly, we must insist that such attorneys receive adequate fees for their productive time, which argues for prompt deletion of the \$10.00 reference.

It is not enough, however, to make the changes discussed without also revising the top hourly figures. The present reference to ten year practitioners should be changed to provide for \$35.00 to \$75.00 rather than the present \$25.00 to \$50.00. Unless this is accomplished, the senior lawyers will be available at rates making it nearly impossible for younger men to compete effectively and still abide by a schedule of ethical fees.

It follows logically that the intermim period between two and ten years in practice should also be revised, preferably to \$20.00 to \$35.00 per hour for two to five year lawyers and \$30.00 to \$50.00 per hour for five to ten year practitioners.

Lest we be misunderstood in our motive for these proposals, let me quickly add that in this business of hourly analysis, people must remember that a lawyer who works a forty hour week can only record—or log—a portion of those forty hours. Of those recorded only a fraction are chargeable, since much of his work normally is public or contributed to charity or gifted to the indigent or to the demands of justice. Then there remains the fact that many "chargeable" hours ultimately prove "unbillable," and there is an inevitable slippage between billing and receipts. In other words, all the bills don't get paid, and many are expensively delayed. Hourly rates must take this into consideration.

In summary, the specific Pocatello recommendations should be approved subject to the above revision of hourly figures. Beyond that, the Bar should continue its interest in a fair schedule and each local group or Bar is encouraged to advise the Committee of its recommendations. This will help in the development of a schedule that is truly uniform and statewide.

Provided the necessary budget and Commission accord, there is also need for an orientation program or perhaps materials for periodic work with lawyers in their first years of practice. The business of running an office deserves some study and effort, and it is a responsibility of the Bar, not the law schools, to teach this. A low-cost seminar would seem to be in order at least once each year or two.

We suggest that this committee be continued and its program adequately funded to facilitate coordination of complementary or related activities of local associations. The seminar program, as well as the fee schedule program, deserves Bar support on the State level.

For completion of the record here, I might advise the Convention that the Pocatello recommendations for fee changes in the present fee schedule as it appears in the official Desk Book is this: First of all, the hourly rate changes, the hourly rate that I just referred to, will change on page 1, so the first category will be \$15.00 to \$25.00 an hour for people in the first two

years of practice. The second category will go from \$20.00 to \$25.00 an hour for the two to five year practitioners, and from \$30.00 to \$35.00 an hour for the five to ten year practitioners, and from \$35.00 to \$75.00 for the ten year practitioner and over. These are the changes on page 1 of the fee schedule. On page 2 of the fee schedule, there will be changes in the Supreme Court section. The petitions for rehearing will be raised from \$150.00 to \$250.00. The petition for rehearing and arguments will be raised from \$250.00 to \$350.00. On page 5 you will carry changes under Justice and Probate practice. The fee for appearance which was formerly \$25.00 now goes to \$50.00. The fee for Probate Court matters will be changed such as adoptions where non-related persons are adopting will be raised from \$125.00 to \$150.00. Under guardianships, that will be raised from \$100.00 to \$150.00. The next page on Bankruptcy, carries one change, and that is in the Wage-Earners Plan special proceedings, which will go from \$250.00 to \$300.00. The next page, page 7, would carry changes under the Workmen's Compensation proceedings from \$250.00 to \$300.00 for plaintiff's attorneys, and the no offer contingent fee arrangement would be a flat 25% where there was a settlement prior to the dates of hearing. Presently it is 15 to 25%. The same section would be changed where no offer of settlement is made or which is made on the day of or during or following the hearing or by ruling of the Industrial Accident Board. This now reads 20 to 30% and it would be increased from 30% to 40% on the same page. The drafting of a simple deed will be changed from \$10.00 to \$15.00, on the last page the consultation fee for telephone conference with a client will change from \$3.00 to \$5.00.

Mr. President, this is the report of your committee. And at this time I would respectively move for the adoption and approval of this report, and further for the authorization of the revision of the fee schedule of the Idaho State Bar Association and the correction of the Desk Books accordingly in line with the foregoing report.

JERRY SMITH, PRESIDENT: Do I hear a second?

JOHN BENGTON: I will second it.

JERRY SMITH, PRESIDENT: Unless there is an objection from the floor to this procedure, we will vote on it. Are there any objections to this procedure. Hearing none, is there any discussion? Hearing no requests for discussion, all in favor signify by saying aye. Any opposed? Unanimously adopted. Thank you very much, Gene, for that very good report.

The next report from the Group Insurance Commission, James Green, Chairman. Jim, would you give that report?

JIM GREEN: Frank, I think, might give us those figures.

FRANK ELAM: Mr. Green's report indicates that there was only one inquiry by a member of the Bar in the last year, which was directed toward the question of waiver of evidence of insurability under the various contracts, to which he was advised that the evidence of the insured's ability was waived as the major medical program had sufficient membership enrolled but that we had not reached the sufficient membership level in either the life program or the disability of income program to achieve waiver of

evidence of insurability. From Mr. Squire's letter of June 10, 1968, he stated that the claims ratio in the income protection plan and life insurance program is holding up favorably. However, we are experiencing heavy losses in the major medical program. The loss ratio in this portion of the coverage in 1967 was 126% and so far this year it's 193%. In respect to total benefits, we have now paid \$111,283.00. The bulk of this has been on major medical claim benefits, and in this portion alone was paid \$80,079.00. The total enrollment in the various plans available is as follows: Income protection, 201; Major medical, 268; life insurance, 132.

JERRY SMITH, PRESIDENT: Thank you, Frank, it looks like we are all getting some good out of this program, and thank you, Jim.

The next committee to report is the Idaho State Bar Representative of the Western Regional Liason Committee, Internal Revenue Service, Myron Anderson, Chairman. Is there a report on that, Myron?

MYRON ANDERSON: No report this year.

JERRY SMITH, PRESIDENT: No report. The next report is of the Committee of Investigation of Alleged Foreclosures, and Archie Service is Chairman. Archie, do you have a report?

ARCHIE SERVICE: Mr. Chairman, I have submitted a written report, and I am frankly not going to read it, but I will very briefly comment on it.

The Committee was appointed to investigate the lay foreclosures in the State of Idaho. As Chairman, I took it upon myself to correspond with the Bar Associations of the neighboring jurisdictions. I received some replies and some replies I did not receive. My report is conclusive except that I have the recommendation to make that it be continued. After I wrote the report and submitted it I received a response from the State of Utah and have also had opportunity to discuss this matter with the Southern Bar Presidents of our major jurisdictions. I feel this is very much in public interest to continue this committee for another term to conclude our investigation and to come up with some basic recommendations to the Bar Association on this matter.

JERRY SMITH, PRESIDENT: Thank you, Archie. The Commission, I am sure, will continue the committee. When we find someone willing to work, we sure will put them to work.

The next committee to report is the Legal Service Committee, William Stellmon, Chairman. He is not here. Clark Gasser is also on that committee. Is Clark here this morning? Is there anyone here to give that report?

MR. ELAM: I received a telephone call which indicated there would be no report from this committee.

JERRY SMITH, PRESIDENT: No report. The next committee is the Legislative Committee, Charles McDevitt, Chairman.

MR. ELAM: No report.

JERRY SMITH, PRESIDENT: The next committee is Life Insurance

Lawyers Liason Committee, Marcus J. Ware, Chairman, is there a report from that committee?

MR. ELAM: No report filed.

JERRY SMITH, PRESIDENT: No report filed. James Hawley is also on that committee. Is there a report on that committee, Mr. Hawley?

JAMES HAWLEY: No report.

JERRY SMITH, PRESIDENT: The next report is the Professional Ethics Committee. Mr. Elam, is that contained in your Secretary's report?

MR. ELAM: I do have a report from Mr. Sharp. John M. Sharp, Chairman of the State Bar Ethics Committee, reports as follows:

I know of no significant problems that have been presented to us during the past year, and doubt we have engaged in activities that would justify calling the attention of the entire Bar meeting to what we have done.

We have received six inquiries during the past year, and I am pleased to report that, due to the willingness and competence of the other two members of the Committee, we have been able to promptly submit answers to each. You have received copies of our responses and are aware of what we have done.

We stand ready to continue the work and look forward to the opportunity of continuing our service to the Bar Association.

MR. SMITH: Thank you, Frank. I might say it is really wonderful the response that you get from the Idaho lawyers to serve on these committees. This Bar Association couldn't function except for the Bar Committees. When we have people like John Sharp indicating a willingness to go forward, we certainly do appreciate this.

The next report is Public Relations Committee. William Stellmon, Chairman. Is there a report.

MR. ELAM: There is no report on that from him, however, I did receive a copy of the annual report of the Legal Aids Committee.

As requested by the Board of Commissioners of the Idaho State Bar Association, we are submitting herewith the annual report for 1968 of the Legal Aid Committee of the Idaho State Bar Association.

The Committee has never met formally as a committee during 1968 but the chairman and Clark Gasser, the only other member of the Committee prior to the appointment in June of 1968 of Wayne Fuller to the Committee, have discussed some of the Committee functions and problems.

As you are undoubtedly aware, there are legal aid committees established in most, if not all, of the local Bar Associations, but in only one or two areas of the State have these committees been active to any degree. The Legal Aid Committee in the Pocatello area was re-organized in May, 1968, with James B. Green as local chairman and although the Committee has not had an opportunity to become fully workable, they have handled a

few cases on referral. The chairman of this Committee is also chairman of the Clearwater Bar Association Legal Aid Committee and for the past year this Committee has been quite busy, most of the referrals coming from either the Idaho Department of Public Assistance or the local Community Action Agency and the work load of the Committee has doubled or even possibly tripled since the establishment of the Community Action Agency in Lewiston. The Committee feels that the traditional services provided by individual attorneys without fee have been, in many cases, continued without reference to a Legal Aid Committee but we, as a Committee, feel that the establishment of and referral to local Bar Association Legal Aid Committees would facilitate the handling of qualified cases as well as spread out the responsibility among the members of the Bar for this type of work.

It is felt by the Committee that local bar associations and the State Bar Association could not feasibly conduct a program on as broad a scale as desired by the federal government under the Office of Economic Opportunity dealing directly through legal services programs. Part of their responsibility is outlined as "information dissemination." They fulfill this responsibility, it is our understanding, by radio spots, news items in the newspaper, question and answer series in newspapers and in some places, even television spots with dramatizations of common problems confronting poor people and the proper solution to the matter if the person follows the suggestion and contacts the legal services office. It is felt by our Committee that this is impractical so far as state or local bar associations are concerned and we therefore assume that if this is to be done the only practical way to do it is for the Bar to cooperate in the establishment of legal services programs throughout the State of Idaho.

To date there is only one such organization in the State, that being the Western Idaho Legal Aid, Inc., organized to serve citizens in Adams, Boise, Gem, Payette, Valley and Washington counties. Mr. Walter Curnutt of Emmett, Idaho, is presently the staff attorney working for the Western Idaho Legal Aid, Inc., and your Committee is in possession of copies of the Articles of Incorporation and the By-Laws of this legal services group and will be more than happy to furnish them to the Board of Commissioners or to any member of the State Bar interested therein. We assume that Mr. Curnutt would be in a position to give assistance to anyone desiring it in the establishment of legal services groups elsewhere in the state.

There is presently an application for a legal services group, filed by the Community Action Agency in Lewiston, Idaho. To date this has not been approved by the Office of Economic Opportunity but tentative plans have been made by the Community Action Agency in conjunction with the Clearwater Bar Association to set up a legal services group in the Nez Perce, Latah, Clearwater, Idaho and Lewis county area which would also include work in Asotin County, Washington.

It seems to this Committee that the only alternative to legal services groups fronted under the Office of Economic Opportunity program is for the local Bar Association to form legal aid committees and to actively pursue legal remedies for persons not able to pay for legal services. It is

our suggestion that local associations establish legal aid committees, set guide lines fairly close to the guide lines presently established by the Office of Economic Opportunity to determine qualification for services, to establish a referral of cases to members of the association and to encourage cooperation of the members of the Bar with this committee. If this is not done there will most certainly be established several other legal services programs federally funded throughout the State of Idaho.

This Committee stands ready to fulfill any assignment given it by the Board of Commissioners to aid in the establishment of legal service committees in the local bar associations and to make available to the Board of Commissioners or to any inquiring association, the experience of the Committee regarding the operation of an effective legal services committee.

JERRY SMITH, PRESIDENT: The next report is that of the Real Estate Agents-Attorney Liason Committee. Do we have a report?

MR. ELAM: Yes, that committee reports no activity except for the participation in a survey of the American Bar Foundation and University of Alabama relating to the costs of purchasing homes, the results to be published at a later date when the survey is completed.

JERRY SMITH, PRESIDENT: Next committee is the Resolutions Committee, and I am going to skip that until after the coffee break since there are so many resolutions to consider. The next committee to report is the Rocky Mountain Mineral Law Foundation Trustee, Cal Dworshak, Chairman, and lone member of that committee.

MR. ELAM: Mr. Dworshak reports that there is nothing new to report.

JERRY SMITH, PRESIDENT: The next committee listed is the Specialization Committee. The Commissioners advised us that the specialization assumption is something that the American Bar Association presently has under consideration. This committee was designated in order to stay abreast of what the developments were there other than just to say that there is nothing to report on this committee.

The next committee to report is the Tax Institute. L. Charles Johnson, Chairman. Is there a report?

MR. ELAM: No report filed.

JERRY SMITH, PRESIDENT: Is there anyone here desirous of giving a report. Archie, do you want to make that report. I believe this is a committee that a lot of people don't really understand what its function is and it really, I think, serves a very important function, not only that but we found out that we have some money in there that we didn't know about until the other day.

MR. SERVICE: This is correct. We have had in Pocatello in conjunction with the College of Business at the Idaho State University for the past ten or eleven years, a Tax Institute, and it has been jointly sponsored by the Idaho Lawyers Association, the CPA's and the University. It has been very successful and a very good institute, and it has been as a result of the promotion of the Dean there. Frank is taking a position at the University of

Oregon this year, nevertheless, we plan to continue the institute in conjunction with the Idaho State University. They have been very successful in the past. We have a good institute lined up for this fall and we have some amount, like \$3500.00, in the till to finance this institute. So, not only has it been self-sustaining, we have made a little money on it. This money will be kept in the institute to continue on further.

JERRY SMITH, PRESIDENT: Thank you, very much, Archie. Frankly, I had never attended one of these Tax Institutes until last year. Since the Bar Association is a co-sponsor of it, I went down and really it was very good and worthwhile. There were not too many lawyers there. I think only about two or three, other than myself, it was mostly attended by accountants, but it was very good.

The next committee report is the Unauthorized Practice of Law Committee, Howard Manweiler, Chairman.

MR. ELAM: The committee reports that there has been no activity.

JERRY SMITH, PRESIDENT: The Commissioner here indicated that perhaps I glossed over a little too hurriedly the Specialization Committee and I am going to ask him to tell you a little bit about what the American Bar is doing in that area.

LAMONT JONES: Thank you, Jerry. I thought you just might be interested to know a little bit about this. I know most of us when you talk about specialization you turn your back on the problem. In our area, at least, you hold yourself out to be a general practitioner. You can't afford to be a specialist. Well, this is something of national importance to the American Bar Association. It is very possible that a plan for specialization will come before that body in August and perhaps at the midwinter meeting.

Basically, the hitch, the problem that has faced the Bar with the attempt to adopt one of the two precedents, in 1954 it was suggested that specialization was something where a person could be qualified through tests. This type of thing—an experience conducted by the local bars. The man who attained a specialty could then hold himself out to practice in one area only. It was narrowly defeated at that time. That was the gist of the resolution. It was defeated in the area of advertising by the question of how do I list myself in the telephone directory, this sort of thing, on my door, and so on. So while they agreed to limit the thing to a particular practice in a particular area, they just could not get over this advertising phase. The second problem they had was the question on qualification, who should run it. The American Bar Association for the nation, the State Bar over its own people. Then it sort of died for a few years. But, again in 1964 or '65 an alternate resolution was put before the group by a different committee. This group recommended specialization but no requirements that you step out of the general practice of law. In order to have a specialization, and again on the same requirements of you passing a test and working in the area, and again advertising was a problem, and when this came before the group they did not vote on it. I assume you could say it was tabled for additional study with the recommendation to the group that you go back to the 1954 idea, that if you are going to specialize, that's the area of your

business, and I say most of us were a little concerned, at least the general practitioners. But, the surrounding states are taking a real hard look at this, and in California they were attempting to set up the machinery to appoint specialists once the American Bar Association approved of it under either plan. I think the problem that we face is actually specialists from other states being able to come into Idaho on the basis of a specialty, still associating with counsel, but this is what bothered some of our smaller states such as us was the question of how we could control the practice within our state, and secondly, who'd administer the tests. I think it is the general consensus of the surrounding states, including California, that they want the control within their body and they don't want the American Bar Association to step in and try to give this specialty type test. So I think possibly in the next year there will be some real activity in this area, and we will try to keep you informed. If nothing else, through the Advocate. But it is something that we should all consider because at one time or another I think that we might have to actually take a vote to determine whether or not in the State of Idaho we want a practice of law by specialty.

JERRY SMITH, PRESIDENT: Thank you very much, Lamont. The next committee report is the Secretary's report.

FRANK ELAM: Mr. President and members of the Bar, the following report is made to the members of the Idaho State Bar for the purpose of reporting statistics pertaining to the financial condition of the Idaho State Bar, its membership, bar examination results, disciplinary matters, and other aspects of the work of the Board of Commissioners, its employees and committees. The following report covers the period from June 1st, 1967 to June 1st, 1968.

FINANCIAL REPORT

BAR COMMISSION FUND: The account books maintained in the Executive Director's office, which are audited by the State Auditor, reflect the following receipts, expenditures and balance in the Bar Commission Fund, a dedicated fund subject to State appropriation and control:

EXPENDITURES—June 1, 1967 to June 1, 1968:

Personal services	\$16,193.00
Travel expense	8,717.08
Other miscellaneous expense	7,638.33
Capital Outlay	26.45
Transfers to Social Security	624.37
Transfers to General Fund.....	742.43
Refund	15.00
TOTAL	\$33,856.66

RECEIPTS, BALANCE:

Balance on hand June 1st, 1967	\$13,156.40
Receipts, June 1, 1967 to June 1, 1968	33,280.00
TOTAL	\$46,436.40
Less Expenses	33,856.66
BALANCE, June 1, 1968.....	\$12,579.74

Personal Services covers salaries of a part-time Executive-Director, a full time Administrative Secretary and a part-time stenographer, and bar examination monitor. This item also includes fees paid to individual attorneys acting as General Counsel by appointment of the Commissioners.

Travel Expense includes all costs of transportation, meals and lodging for out-of-town travel of the Commissioners, Executive Secretary, Administrative Secretary and other persons engaged in Bar activities, including Bar Committees and the General Counsel and other attorneys required to travel in connection with discipline investigation and prosecutions. It also covers a portion of the travel expense of the Idaho State Bar Delegate attending meetings of the House of Delegates of the American Bar Association.

Other Miscellaneous Expense includes the cost of printing the Proceedings of the Annual Meeting, that portion of the cost of preparing and distributing the Advocate which is attributable to disseminating official Bar information, the cost of preparing and mailing notices and other materials to Idaho lawyers; office expense such as rent, telephone, postage, stationery and other supplies, and other miscellaneous Bar expense.

The Social Security Transfers represent the State Bar's payment as the employer of the above-mentioned personnel.

The General Fund Transfer refers to charges against the Bar Commission Fund by the State Auditor's office for bookkeeping and auditing services rendered to the Bar.

TRUST FUND: This is a special fund not controlled by the State for the reason that the receipts are collected from sources unrelated to official funds. This fund now includes the examination fees paid by the applicants

and from which the expenses of the examinations are prepared and graded. The status of that fund is as follows:

CASH ON DEPOSIT, as of June 1st, 1968	
at the First National Bank	\$2,244.96
Cash on deposit as of June 1st, 1967	\$1,718.36

MEMBERSHIP

BY DIVISIONS: The membership of the Idaho State Bar at this time as compared with a year ago is:

Division	1967	1968
Northern Division	131	136
Western Division	363	387
Eastern Division	153	157
Out of State	21	18
Military	1	0
	669	698
TOTAL	669	698

Attorneys admitted and currently licensed in Idaho and who are not under disbarment or suspension, and all Idaho Supreme Court Justices and District Court Judges and U. S. District Judges for the District of Idaho, are members of the Idaho State Bar, I. C., 3-405. The judges are included in these figures.

BY LOCAL BAR ASSOCIATION (Showing composition of new local Bar Associations as compared with last year's designation):

Membership in 1967		Membership in 1968	
Shoshone County Bar	16	First District Bar	65
Eighth District Bar	43(59)	Clearwater Bar	71
		Third District Bar	58
Clearwater Bar	72	Fourth District Bar	234
Seventh District Bar	57	Fifth District Bar	95
Third Dist. Bar	214	Sixth District Bar	76
4th and 11th Dist. Bar	92	Seventh District Bar	81
5th Dist. Bar	61	Out of State	18
Thirteenth Dist. Bar	9(70)	Military	0
Sixth Dist. Bar	23	TOTAL	698
Ninth Dist. Bar	44		
Twelfth Dist. Bar	16(83)		
Out of State	21		
Military	1		
TOTAL	669		

Rule 185 (e) provides that at the Annual Meeting each local bar association shall be entitled to the number of votes represented by its total membership, and the members of any local bar association present at such annual meeting shall cast the entire vote of the members of such local bar association.

DEATHS OF ATTORNEYS

Since the last Executive Director's Report in July, 1967, we have learned of the death of the following:

Name	Place of Birth	Date of Death	Admitted to Bar
Nelson, Anthony A.	Pine Bluff, Ark.	Aug. 26, 1967	Sept. 30, 1963
Johnson, Alice Hubbard	Sibley, Iowa	Sept., 1967	Oct. 24, 1955
Baker, Judge Hugh A.	Centerville, Iowa	Oct. 5, 1967	Sept. 18, 1911
Bates, Ross Waldo	Springfield, Neb.	Feb., 1967	Sept. 25, 1913
Hillman, Robert K.	Rexburg, Idaho	Nov. 5, 1967	Oct. 22, 1954
Monson, Ezra P. (Judge)	Franklin, Idaho	June 14, 1968	Oct. 4, 1933
O'Leary, Kenneth W.	Boise, Idaho	Nov. 17, 1967	June 21, 1933
Taylor, J. W.		Nov. 19, 1967	Nov. 11, 1916
Crane, Hon. Paul E.	Denison, Iowa	Nov. 29, 1967	May 5, 1963
Auger, Berchmans	Ridgeton, Ont., Can.	Jan. 13, 1968	Oct. 24, 1911
Walker, George T.	Wallace, Idaho	Jan. 20, 1967	June 9, 1927
Zapp, Carroll F.	Idaho City, Idaho	March 6, 1968	March 6, 1934
Vollmer, J. G.	Alma, Wisconsin	April 24, 1968	Oct. 19, 1908

BAR EXAMINATIONS

Two bar examinations were given since the last Annual Meeting, one in September 1967, and one in April 1968. Fifty applicants wrote for the September 1967 examinations, and of these 45 passed and 5 failed. One Petition for Review of Examination was filed, but was denied.

Ten applicants wrote the April 1968 examinations; five passed and five failed. Two Petitions for Review were filed, and both were denied.

DISCIPLINE MATTERS

There were 28 informal discipline complaints filed with the Bar Commission during the past year. As of June 8, 1968, the date of the last Commissioners' meeting, there were twelve disciplinary matters listed on the agenda, six of which were dismissed at that meeting. There are seven complaints pending at the present time, which are under investigation.

No formal disciplinary complaints were filed during the past year.

JERRY SMITH, PRESIDENT: Thank you, Frank. We will take a 15 minute coffee break at this time.

(Reconvene after coffee break.)

JERRY SMITH, PRESIDENT: I will call the meeting to order at this time. Prior to calling on Mr. Bengtson, Chairman of the Resolutions Committee, I want to read a portion of 185(e), Bar Commission Rules, and that relates to motions and resolutions. "Relating to or affecting the statute of the State of Idaho, one. Rules of court, that's two, or the policies of the Idaho State Bar, that's three, or the Government of Local Bar Association, that's four, shall be determined on the last day of the annual meeting of the State Bar. Each Bar Association organized and existing as provided by the rules shall be entitled to as many votes as there are bona fide resident members of the Idaho State Bar within the territorial limits of that associa-

tion at the time of the annual meeting. Certain resolutions with the four little squares there require that you vote by unit and others can be voted on that don't affect the area, can be voted on by a voice vote from the floor. Carl Burke is going to act as Parliamentarian. At this time we have John Bengtson, Chairman, come forward and give the report of the Resolutions Committee. As you all know, the Resolutions Committee consists of the Presidents of each local Bar, there are seven of them. This year they met three times, I think, before they finally got all these resolutions together. John even had to leave the party early last night to write up the last one. John Bengtson.

JOHN BENGTON: Thank you, Mr. President. I am pleased to present to you and to the members of the Association the report of the 1968 annual meeting of the Resolutions Committee. This committee consists of James Knudson, who was ably replaced after his departure from Sun Valley, by Pete Wilson from the First District, Mike McNichols from the Clearwater Association, Don Downen from the Third District, Blaine Evans, Fourth District, Cecil Hobdey from the Fifth District, Alberta M. Phillips, Sixth District, and Bill Furchner, Seventh District, met on three occasions, on Wednesday afternoon, Thursday morning and Thursday afternoon of this week. This report is the result of much spirited discussion and thoughtful deliberation, and I send my personal thanks to the above named for their efforts and contributions which made this report possible.

First, the committee determined that all resolutions that had been properly circulated and published in the Advocate, and acted upon by local Bar Association members, would be presented at this business meeting, with the recommendations to the Association as to the disposition of such resolution. A number of other resolutions which will be presented for your consideration were drafted and approved by the Committee by the required two-thirds vote of the entire committee. Many of these are courtesy resolutions thanking those who have contributed to the success of the convention and the administration of the Bar Association this year. Others I am sure you will note are somewhat more controversial and shall have a lasting impact upon our Association and each and every lawyer.

Resolution No. 1: BE IT RESOLVED that the members of the Idaho State Bar at the 1968 Annual Meeting extend to The Honorable Roger J. Traynor, Mr. Cullen Smith, Mr. William J. Fuchs, Dr. Thomas F. Staton, and Mr. Cy Radcliffe our appreciation for their most interesting and highly informative addresses and honoring us with their presence at our annual meeting.

Mr. President, I move for the adoption of Resolution No. 1.

ED BENOIT: I will second it.

JERRY SMITH, PRESIDENT: Having heard the motion and having heard it seconded, is there any discussion? No discussion. All in favor of the motion, signify by saying aye. Any opposed to the resolution? The resolution is unanimously carried.

JOHN BENGTON: Resolution No. 2: BE IT RESOLVED that the

members of the Idaho State Bar express to the Idaho Title Company and to the Bank of Idaho for their courtesy in hosting the social hours and to the Idaho First National Bank, IBM Corporation, Office Products Division, and Mutual of Omaha for their courtesy for hosting the coffee break during the annual meeting, our sincere appreciation.

Mr. President, I move for the adoption of Resolution No. 2.

TOM MILLER: I will second that motion.

JERRY SMITH, PRESIDENT: Having heard the motion and having heard it seconded, is there any discussion? No discussion. All in favor of the motion, signify by saying aye. Any opposed? The resolution is unanimously carried.

JOHN BENGTON: Resolution No. 3: BE IT RESOLVED that the members of the Idaho State Bar at the annual meeting for the year 1968 extend to Bancroft Whitney Company, Commerce Clearing House, Mathew Bender Company and West Publishing Company our sincere thanks for their courtesy and generosity in donating various legal publications for door prizes at the annual meeting.

Mr. President, I move for the adoption of Resolution No. 3.

GLENN COUGHLAN: I will second it.

JERRY SMITH, PRESIDENT: Any discussion? No discussion. All in favor, signify by saying aye. Any opposed? No opposition, the motion is unanimously carried.

JOHN BENGTON: The next resolution was not intended or designed to be controversial. Resolution No. 4: BE IT RESOLVED that the members of the Idaho State Bar at the 1968 annual meeting express our sincere appreciation to the management and staff of SUN VALLEY for their efficient and courteous service to the members of the Bar and their families and guests and for the excellent facilities and services provided for all the meals, meetings, and other activities held during the annual meeting.

PETE WILSON: I will second that motion.

JERRY SMITH, PRESIDENT: Having heard the motion and having heard it seconded, is there any discussion? No discussion—all in favor of the motion signify by saying aye. Unanimously carried.

JOHN BENGTON: Resolution No. 5: BE IT RESOLVED that the members of the Idaho State Bar at the 1968 annual meeting do express our sincere appreciation to Mr. Jerry V. Smith, retiring President, and to the other Commissioners and officers of the Idaho State Bar for their faithful service to the Idaho State Bar during the past year and for the effective leadership that they have furnished to make the past year one of genuine accomplishments and measurable progress.

Mr. President, I move for the adoption of Resolution No. 5.

MR. IMHOFF: I would like to go on record as seconding that motion.

PRESIDENT JERRY SMITH: Any discussion on this motion? All in favor signify by saying aye. Any opposition? Hearing none—carried unanimously.

JOHN BENGTON: Resolution No. 6: WHEREAS, it is felt by the members of the Idaho State Bar Association to be a more effective method of collecting child support payments to provide personal jurisdiction over non-resident fathers by amendment of the "long arm" statute rather than pursuing what is presently a rather cumbersome method of attempted collection under the Uniform Reciprocal Enforcement of Support Act.

NOW, THEREFORE, BE IT RESOLVED by the Idaho State Bar Association that the said Association propose to the state legislature the amendment of Idaho Code, Section 5-514 by adding thereto a new subsection as follows:

"With respect to actions of divorce and separate maintenance, the maintenance in this state of a matrimonial domicile at the time of a cause of action arose or the commission in this state of any act giving rise to the cause of action."

It is the recommendation of the Resolutions Committee that Resolution No. 6 do not pass and that in lieu thereof a substitute motion be made. It will be known as Resolution 6A, as follows:

WHEREAS, it is the opinion of the members of the Idaho State Bar Association that child support could be more effectively collected if the provisions of the "long arm statute," Idaho Code Section 5-514, were amended to provide impersonam jurisdiction over non-resident fathers, rather than pursuing what is presently a rather cumbersome and unsatisfactory method of attempted collection under the Uniform Reciprocal Enforcement of Support Act.

NOW, THEREFORE, BE IT RESOLVED by the Idaho State Bar Association, at the 1968 annual meeting thereof, that the Board of Commissioners of said Association propose to the 40th Session of the Idaho State Legislature an amendment to Idaho Code Section 5-514, to enlarge the jurisdiction of the appropriate courts of the State of Idaho in divorce and separate maintenance proceedings to enter orders and judgments relating to child support against non-resident parties obligated to provide such support.

It was felt by the Committee in making this recommendation that the wording of the proposed amendment 5-514 needed some further study. However, the committee felt that some legislation along these lines was in order. Therefore, Mr. President, I move for the adoption of Resolution 6A.

JERRY SMITH, PRESIDENT: It is the ruling of the Chair that when these matters, where the Resolution Committee has moved for the adoption of a given resolution that a seconding is not required. It is also the ruling of the Chair that this is one of the areas that we must vote by the unit rule. It is also going to be the ruling of the Chair that any discussion on any resolution will be limited to fifteen minutes. We don't want to get tied up here all day. I don't know if any of them are that controversial, but I think

that possibly we can stand by the ruling of the Chair unless there is an objection to that ruling. Is there any objection to that ruling? Hearing none, it will be the order of the day. I think that we have a bit of parliamentary snarl here with respect to what to do with resolution 6 but I will cover it after we vote on Resolution 6A. Resolution No. 6A is open for discussion at this time. Is there any discussion on this resolution or any question that you want to ask of the Resolution Chairman or any member of the Resolution Committee, no discussion, all right then, we will vote by unit rule.

First District Bar, 65 members. First District Bar votes Aye.

Clearwater Bar, 71 members. Clearwater Bar votes Aye.

Third District Bar, 58 members. Third District Bar votes Aye.

Fourth District Bar, 234 members. Fourth District Bar votes Aye.

Fifth District Bar, 95 members. Fifth District Bar votes Aye.

Sixth District Bar, 76 members. Sixth District Bar votes Aye.

Seventh District, 81 members. Seventh District votes Aye.

The resolution is unanimously carried.

Now, with reference to Resolution No. 6.

MR. TOM MILLER: Mr. President, I move that Resolution No. 6 be laid on the table.

JERRY SMITH, PRESIDENT: That motion is in order. All in favor of the motion, say aye. Opposed? Unanimously laid on the table.

JOHN BENGTON: Resolution No. 7: WHEREAS, the members of the Idaho State Bar Association feel that the present Volume 12 of the Idaho Code is in dire need of revision and reprinting,

NOW, THEREFORE, BE IT RESOLVED by the Idaho State Bar Association that the said Association take an active part in all appropriate ways to achieve the revision and reprinting of a complete index volume or volumes to the Idaho Code.

Mr. President, I move for the adoption of Resolution No. 7.

JERRY SMITH, PRESIDENT: Any discussion on Resolution No. 7? Hearing none, we will vote on this by unit rule.

First District Bar, 65 members. First District Bar votes Aye.

Clearwater District Bar, 71 members. Clearwater District Bar votes aye.

Third District Bar, 58 members. Third District Bar votes aye.

Fourth District Bar, 234 members. Fourth District Bar votes aye.

Fifth District Bar, 95 members. Fifth District Bar votes aye.

Sixth District, 76 members. Sixth District votes aye.

Seventh District, 81 members. Seventh District votes aye.

The resolution as presented is unanimously passed.

MR. BENGTON: Mr. President, Resolution No. 8 relates to the Advisory Fee Schedule of the Idaho State Bar Association. The entire contents of Resolution No. 8 has been taken care of by the motion made by Mr. Thomas and which was unanimously carried here earlier this morning. Therefore, if there are no objections, Mr. President, we will delete from our report Resolution No. 8.

JERRY SMITH, PRESIDENT: Hearing no objections, it will be so done.

MR. BENGTON: Resolution No. 9: WHEREAS, the rights of general unsecured creditors are not adequately protected by the present statutes concerning fraudulent conveyances, or protected with changing times, practices and laws,

NOW, THEREFORE, BE IT RESOLVED by the Idaho State Bar in convention duly assembled, that the Idaho Legislature convening in January, 1969, be urged to adopt The Uniform Fraudulent Conveyance Act in the form promulgated by the National Conference of Commissioners on Uniform State Laws.

Mr. President, I move for the adoption of Resolution No. 9.

JERRY SMITH, PRESIDENT: Is there any discussion or any questions that anyone wants to ask of Resolution No. 9? Hearing none, again we will vote by the unit rule.

First District Bar, 65, members. First District Bar votes aye.

Clearwater District Bar, 71 members. Clearwater District Bar votes aye.

Third District Bar, 58 members. Third District Bar votes aye.

Fourth District Bar, 234 members. Fourth District Bar votes aye.

Fifth District Bar, 95 members. Fifth District Bar votes aye.

Sixth District Bar, 76 members. Sixth District Bar votes aye.

Seventh District Bar, 81 members. Seventh District Bar votes aye.

The resolution No. 9 is unanimously passed.

MR. BENGTON: Resolution No. 10: WHEREAS, it is the desire of the members of the Idaho State Bar for the purpose of reimbursing losses to clients which occur on very infrequent occasions through the dishonest conduct of persons admitted and licensed to practice law in the State of Idaho and which conduct is in violation of their oath as members of our honorable profession, solemnly taken at the time of their admission to practice before the Supreme Court of the State of Idaho, and in order that the integrity and good name of the legal profession as a whole shall not be affected by such dishonest acts of the few;

AND WHEREAS, it is the desire of the members of the Idaho State Bar

that their annual license fees be raised from a maximum amount of \$50.00 to a maximum amount of \$75.00 in order to provide funds for the establishment and operation of the Client's Indemnity Fund and further in order to provide additional funds to the Idaho State Bar to perform additional services for the members of the Idaho State Bar and the members of the general public;

NOW, THEREFORE, BE IT RESOLVED that the Idaho State Bar Association support and actively campaign for legislation providing for the establishment of a Client's Indemnity Fund and an increase in annual license fees from the maximum sum of \$50.00 per annum to the maximum sum of \$75.00 per annum.

BE IT FURTHER RESOLVED that the Commissioners of the Idaho State Bar take steps to prepare and introduce appropriate legislation in the next session of the legislature of the State of Idaho similar in form and content to a proposed act attached to this resolution.

BE IT FURTHER RESOLVED that upon passage of the appropriate legislation establishing a Client's Indemnity Fund and raising the lawyers' annual license fees in the maximum amount from \$50.00 to \$75.00 per annum. The Commissioners of the Idaho State Bar adopt sufficient rules and regulations governing the administration of the Client's Indemnity Fund and forward the same to the Supreme Court of Idaho for its approval.

Be It Enacted By The Legislature of the State of Idaho:

SECTION 1. CLIENT'S INDEMNITY FUND ESTABLISHED. — In order to provide limited financial compensation after the beginning of the fiscal year of July 1, 1969 to July 1, 1970 to clients of attorneys or those who bear a fiduciary relationship to an attorney against loss from embezzlement, defalcation or dishonesty of an attorney while admitted to practice law in Idaho there is hereby established a Client's Indemnity Fund as part of the Bar Commission Fund to be received, held, managed, administered, and disbursed by the Commissioners of the Idaho State Bar pursuant to Rules and Regulations adopted by the Commissioners of the Idaho State Bar subject to approval by the Idaho Supreme Court.

SECTION 2. OBLIGATION TO DISBURSE FUNDS.—The funds held in the Client's Indemnity Fund are to be disbursed to claimants only after the presentation of a valid claim to the Board of Commissioners of the Idaho State Bar within three years after the commission of an act giving rise to the claim by an attorney who has died, been adjudged mentally incompetent, has been missing for over one year, or been reprimanded, suspended or disbarred by order of the Supreme Court of the State of Idaho. If the claim presented is totally or partially denied by the Board of Commissioners, the claimant may request a hearing before the Board of Commissioners and present evidence in support of the claim, at which hearing a verbatim transcript shall be taken. Upon a further partial or total denial of the claim, the claimant may, within sixty days of the decision of the Board of Commissioners, file an appeal with the Supreme Court of the State of Idaho, which will subsequently review the claim on the record

transmitted to it and affirm, overrule, or modify the decision of the Board of Commissioners.

SECTION 3. LIMIT OF PAYMENT.—Payment of claims from the Client's Indemnity Fund, or any other fund under the control of the Board of Commissioners, shall be limited to the sum of \$5000 to any one client or person, the total sum of \$10,000 for claims based upon the acts or conduct of any one attorney giving rise to one or more valid claims, and the total sum of \$15,000 for all claims in any one fiscal year. Payment of claims may be withheld until the end of each fiscal year to determine if the funds to be paid on several claims are in excess of limitations set out in this section, and payments may be prorated among claimants pursuant to the decision of the Board of Commissioners. The right to receive any payment for any claim is subject to funds being available in the Client's Indemnity Fund and limited to the total amount of \$30,000, or any lesser amount, appropriated in any biennium to the Client's Indemnity Fund.

SECTION 4. PURSUIT OF LEGAL REMEDIES AND SUBROGATION.
—Each claimant must, unless this requirement is waived by a resolution of the Board of Commissioners, exhaust his legal remedies against the attorney, and his sureties or indemnitors, whose acts gave rise to the claim, before being entitled to receive any funds from the Client's Indemnity Fund and the Board of Commissioners is subrogated, to the extent of any payment made, to the rights of the claimant against the attorney or his sureties or indemnitors. No surety, indemnitor or surety company shall have the right to maintain a claim directly or by right of subrogation against the Client's Indemnity Fund. The Spouse, or former spouse, brothers, sisters, children and parents, associates, partners, employees, and employers of the attorney guilty of acts giving rise to a claim and other lawyers or attorneys are barred from recovery from the Client's Indemnity Fund even though otherwise eligible because of the existence of any attorney-client or a fiduciary relationship with the attorney guilty of dishonesty, embezzlement, or defalcation.

SECTION 5. AMOUNT OF CLIENT'S INDEMNITY FUND. — The Client's Indemnity Fund shall consist of those funds appropriated from the dues paid by the attorneys of the State of Idaho pursuant to law or rule of the Supreme Court of Idaho and received by the Treasurer of the State of Idaho in excess of the sum of \$60.00 per annum per attorney up to a total sum of \$30,000. After the Client's Indemnity Fund contains, from the receipt of dues or license fees of attorneys, in excess of the amount of \$60.00 per annum, the sum of \$30,000, the legislature shall thereafter appropriate as is necessary each biennium from the Bar Commission Fund sufficient funds to reimburse the Client's Indemnity Fund for any claims paid during the biennium as reported by the Board of Commissioners of the Idaho State Bar, only from available funds to be received from attorneys in license fees and dues in excess of the amount of \$60.00 per annum. The balance of any dues or license fees received from attorneys after the Client's Indemnity Fund reaches a total amount of \$30,000 shall be appropriated to the Bar Commission Fund for administration by the Board of Commissioners pursuant to law.

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SECTION 6. DISBURSEMENT OF FUND BOARD OF COMMISSIONERS.—Upon the receipt of a voucher from the Board of Commissioners or an order from the Supreme Court of Idaho, the Auditor shall issue a warrant drawn on the Bar Commission Fund for the amount appropriated to the Client's Indemnity Fund from the Bar Commission Fund by the legislature for deposit by the Board of Commissioners with a financial institution in Idaho selected by the Board of Commissioners. Interest earned from the deposit of such funds shall remain in the Client's Indemnity Fund and may be offset against the amount of the appropriation needed each biennium in order to maintain a balance in the Client's Indemnity Fund of \$30,000 after the payment of any claims.

SECTION 7. LICENSE FEES.—Section 3-409 Idaho Code is hereby amended to read as follows:

3-409. LICENSE FEES AND APPROPRIATIONS.—Every person practicing, or holding himself out as practicing law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except state and United States judges of the courts of record within this state, shall, prior to so doing and prior to the first day of March each year, commencing with the year 1963, and thereafter, pay into the state treasury as a license fee the sum of fifteen dollars (\$15.00) for the calendar year of his admission to practice law in the state of Idaho, and fifteen dollars (\$15.00) for the next calendar year thereafter, and thirty dollars (\$30.00) each year for the second, third and fourth calendar years following the calendar year of such admission; and seventy-five (\$75.00) for the fifth calendar year following the calendar year of such admission, and seventy-five (\$75.00) for each year thereafter until the year following the calendar year in which the person attains the age of sixty-five years and in that year and each year thereafter the sum of thirty-five dollars (\$35.00); and all sums heretofore paid under the provisions of this chapter, and any other moneys paid or to be paid into the Bar Commission Fund hereinafter mentioned by law or by rule of the Supreme Court, shall constitute, and be held by the state treasurer as a separate fund to be known as the bar commission fund, which shall be paid out by the state treasurer upon warrant drawn by the state auditor against said fund. The state auditor is hereby authorized, upon presentation of the proper vouchers or claims against the state, approved by the board of commissioners of the Idaho State Bar and the state board of examiners, as provided by law, to draw his warrant upon said fund. All moneys now, or hereafter to be or come into said fund are hereby appropriated for the purpose of carrying out the objects of this act, and to pay all costs and expenses heretofore and hereafter incurred therein or connected therewith.

The proposed legislation attached to this resolution is of sufficient importance that the committee felt it should be read at this time. Mr. Chairman, I move for the adoption of Resolution No. 10.

JERRY SMITH, PRESIDENT: It is the impression of the Chair from the wording of the resolution which Mr. Bengston read is not being passed on per se, that the resolution says that the Idaho State Bar introduce appropriate legislation similar to the form of the contents as the proposed

Act appended to the Resolution. The resolution does not require that the Act read in the exact wording of that which was read, but there could be some changes as long as the resolution was complied with. Any discussion on Resolution No. 10?

MR. RINGERT: I wonder how many incidents of losses of this nature have occurred in recent times. I think it would be well if we have some idea of what the passage of this legislation would be designed to meet. Do we have any statistics on it?

JERRY SMITH, PRESIDENT: I think that maybe Jim Lynch has some statistics on that. I can tell you this much, there have been no instances since I came on the Commission where any such claim could have been made. Just prior to the time that I came on the Commission there was a lawyer disbarred in the southern part of the state where there was a defalcation and a loss to the client. Jim, I will recognize you and ask you to answer Mr. Ringert's question.

JIM LYNCH: Well, I think the experience that I had while I was Secretary, and Tom when he was Secretary, it was that the number of claims that would have been allowed had this been in effect over the last few years, would have been a relatively small number. There would have been only two that I am aware of that a client would have had a right to claim loss, and in one of the cases the client would have had a right to present a claim in the amount of \$2,000. Actually, these people that would have had the right to make the claim were the Elks Rehabilitation Center, a couple of hospitals, and three or four doctors.

There was another claim of some bad checks. There was one case before I was Secretary in which a claim might have been paid. It's not expected in this state with an integrated Bar that this will be any great problem.

MR. PRESIDENT: Thank you, Jim. Does that answer your question, Mr. Ringert?

MR. RINGERT: Well, I have heard that part of it, Mr. President, now I would like to give a lone dissent on the resolution. I think with the frequency of the instances of this nature that we have experienced in the recent past legislation of this nature would do the Bar Association more harm than good. I think it would just create a bad impression to have legislation of that sort in the Code. It's designed perhaps to create an impression that the Bar Association will take care of problems created by their members, but the mere existence of legislation of this nature in the Code seems to me to indicate some lack of confidence in our own people, and I think that perhaps the resolution would create more problems for us, at least initially, than it would solve.

PRESIDENT JERRY SMITH: Any further discussion?

DALE CLEMONS: I was wondering if there was any experience by other states on this type of legislation. Do you have any background?

JERRY SMITH, PRESIDENT: There is quite a little bit of experience.

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I think that 28 states have this Client's Indemnity Fund. Some may handle it differently than others. Jim Lynch, can you answer some of the questions on this? I might say that I have recently had the opportunity to discuss with the Presidents of the North Dakota and South Dakota Bar, the existence of their funds. Each state has a Client's Indemnity Fund, but interesting enough, each state handles it quite differently. In North Dakota they gave great statewide publicity to the establishment of this fund through the news media and other sources and got a very favorable public reaction for the establishment of the Fund. Here the lawyers were taking care of their own, and this was the type of favorable reaction they received. However, in South Dakota they gave no publicity whatever to the establishment—kept it a secret, and they, of course, did not receive this side benefit of the establishment of the Fund, but they still have the Fund and I believe that the President of the South Dakota Bar indicated that there would be at their next meeting a resolution to abolish the Fund, but that he felt it would fail.

Unless you have another question, I will ask Jim Lynch to answer your question.

JIM LYNCH: Well, the Law Review article I read on this which revealed the survey on the 28 states indicated one, that none of them had been in existence really long enough to have any accurate figures on this. It is relatively a new concept. It started about 1959, but of the 28 Funds reviewed, and these are just rough figures from memory, about 60% of them had never yet had a claim filed, and the other 40% had claims under consideration as of that date, but most of them had been in existence for such a short time that it was hard to receive an accurate figure.

DEAN MENARD: May I have the privilege of the floor?

JERRY SMITH, PRESIDENT: Yes.

DEAN MENARD: As you know, I came here rather recently from Colorado. We had an indemnity fund in Colorado and it was handled very much like South Dakota handled theirs, rather quietly. A considerable segment of the Bar opposed it within a very few months after the Fund was established. I had one experience with it. A member of the Bar in the county in which I was President died and at first look at his accounts it indicated that he did not have any money whatsoever in this trust fund. Well, frankly, we could have claimed bankruptcy, but we worked with it for about two years and we were able to pay everything off. It was done quietly and kept out of the newspapers, and I think that did the profession a lot of good, to be able to take care of this defalcation from the funds and there was no hope of subrogation. His estate was hopelessly insolvent.

JERRY SMITH, PRESIDENT: And thank you, Dean Menard. Any further discussion?

FRED J. HAHN: The proposed resolution before the Bar calls for the funding of the indemnity fund through Bar license dues. I am wondering what the experience in the other 28 states is with reference to their means of funding.

JERRY SMITH, PRESIDENT: As far as I know, from information I have received from those whom I have talked to, they fund them in the same way, from license fees from lawyers. The lawyers do it themselves. There are some that do it a little differently—some of them handle their own money, which we don't, and they just appropriate it over into the Funds whenever it is needed, but it all comes from the license fees or dues paid by the lawyers within the State.

Now I will call again on Jim Lynch to see if he has any statistics on that.

JIM LYNCH: All of the monies come right out of the lawyer's pocket. There are no appropriations. You have different types of Bar Associations, you have those integrated by statute and others integrated by supreme court order and others that are entirely voluntary. Most of the Western Bars are integrated Bars either by court order or by statute, and in those cases, whatever route is used they generally duplicate their Fund-gathering process alongside of it.

MR. JOE IMHOFF: A question. Are these claims payable out of this fund only after exhausting all benefits to be arrived at under an individual policy?

JIM LYNCH: The question was, would the funds be paid after the exhaustion of the EO policy. This thing is designed to never conflict with an E and O situation. In other words, the E and O policy covers negligence, errors and omissions.—This calls for—this covers dishonesty and just plain stealing, and I will say there could never be a situation that would be covered by both. You only pay money out of this Fund after somebody has been convicted of a criminal proceeding before the Bar Commission and has been reviewed before the Supreme Court and approved, and then the situation is covered by the Fund, and I doubt that an E and O carrier would feel any responsibility in this situation, but it is not meant to duplicate or take care of the needs and in any way carry E and O coverage. In spite of this Fund, I don't think the two should ever overlap.

JERRY SMITH, PRESIDENT: E and O relates to malpractice, and this relates to, as Jim said, stealing. We hope there is a difference. Is there any further discussion?

DANIEL MEEHL: Mr. Chairman, I would like to know whether this proposed \$25 raise in dues is anticipated to merely cover the indemnity fund, or whether there is also a surplus which would be used for other purposes.

JERRY SMITH, PRESIDENT: There is a surplus of \$10.00 and it will be used for other purposes. Any other questions. No further discussion. We will vote by the unit rule.

First District Bar, 65 members. First District Bar votes aye.

Clearwater District Bar, 71 members.

Clearwater District Bar votes aye.

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Third District Bar, 58 members.

Third District Bar votes nay.

Fourth District Bar, 234 members.

Fourth District Bar votes aye.

Fifth District Bar, 95 members.

Fifth District Bar votes aye.

Sixth District Bar, 76 members. Sixth District Bar votes nay.

Seventh District Bar, 81 members. Seventh District Bar votes aye.

It has passed. Resolution No. 10 passes with 546 votes aye to 134 votes nay.

JOHN BENGTON: Resolution 10A: WHEREAS, the strength and effectiveness of the organized bar lies not only in its State Association, but also in active local Bar Associations, and

WHEREAS, the present system of voluntary payment of local Bar Association dues is unsatisfactory and a more effective means should be employed to provide funds with which local Bar Associations may conduct more active and effective programs,

NOW, THEREFORE, BE IT RESOLVED by the members of the Idaho State Bar Association at the 1968 annual meeting that this Association support and actively campaign for legislation providing that the annual lawyers license fee be increased as follows:

The sum of \$30.00 as such license fee for the calendar year of admission to practice law in the State of Idaho, and \$30.00 for the next calendar year thereafter, and \$50.00 each year for the second, third and fourth calendar years following the calendar year of such admission; and \$100.00 for the fifth calendar year following the calendar year of such admission and \$100.00 for each year thereafter, and

BE IT FURTHER RESOLVED: that such legislation also provide that out of the annual license fee so paid by each lawyer there be remitted to the Treasurer of the local Bar Association of which such lawyer is a member the sum of \$20.00 in payment of the local Bar Association annual dues of such lawyer, and

BE IT FURTHER RESOLVED that such legislation provide that there be appropriated from such annual license fee to the Client's Indemnity Fund all sums in excess of the sum of \$85.00 per annum per attorney up to a total sum of \$30,000.00, and that after the Client's Indemnity Fund contains, from the receipt of license fees of attorneys, in excess of the amount of \$85.00 per annum, the sum of \$30,000.00, the legislature shall thereafter appropriate as is necessary each biennium from the Bar Commission Fund sufficient funds to reimburse the Client's Indemnity Fund for any claims paid during the biennium as reported by the Board of Commissioners of the Idaho State Bar, only from available funds to be received from attorneys in license fees and dues in excess of the amount of \$85.00 per attorney per year.

BE IT FURTHER RESOLVED that to the extent any prior resolution conflicts herewith, such resolution is hereby modified in accordance herewith.

Mr. President, I move for the adoption of Resolution 10A.

PRESIDENT JERRY SMITH: Any discussion on resolution 10A? This resolution was not circulated among the local Bar Associations prior to this meeting. The rules under which the Resolution Committee operates requires in order to bring forth resolutions at this meeting that two-thirds of the Resolutions Committee must vote on the resolution and approve it, and I understand that this was accomplished, so this resolution had the necessary two-thirds vote of the Resolution Committee and is an appropriate resolution to be placed before this group. Is there any discussion?

MR. BLAINE EVANS: The members of the Fourth District Bar have not consulted on this and we would like an opportunity to caucus on this.

JERRY SMITH, PRESIDENT: The request to caucus has been made. We will recess for five minutes in order that the districts may caucus.

(Reconvene.)

JERRY SMITH, PRESIDENT: May we reconvene. Is there any further discussion on Resolution 10A?

GLENN COUGHLAN, Boise: I have a problem concerning confliction between these two. We've got one passed, and if we pass another don't we have two of these things passed?

JERRY SMITH, PRESIDENT: The resolution as it is worded, Mr. Coughlan, Resolution 10A recognizes there is a possible conflict and provides that any conflict be resolved to comply with it—in the areas that there are conflicts. Resolution No. 10, of course, the attempt in its language was to make it broad enough to adjust to legislation which is required to enact this, so I don't think that this would serve as a formidable problem. As I understand, that was the feeling of the Resolution Committee. Does that answer your problem? Resolution 10A clarifies that point. It says, "Be it further resolved that to the extent any prior resolution conflicts herewith, such resolution is hereby modified in accordance herewith." Does that answer your question, Glenn?

GLENN COUGHLAN: Yes.

JERRY SMITH, PRESIDENT: Any further discussion? Hearing no further discussion I will call for a unit vote.

First District Bar, 65 votes. First District Bar passes.

Clearwater District Bar, 71 votes. Clearwater District Bar votes aye.

Third District Bar, 58 votes. Third District Bar votes nay.

Fourth District Bar, 234 votes. Fourth District Bar votes aye.

Fifth District Bar, 95 votes. Fifth District Bar votes nay.

Sixth District Bar, 76 votes, Sixth District Bar votes aye.

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ALBERTA PHILLIPS: We voted against Resolution No. 10 but with No. 10 being favorably endorsed by this Association the Sixth District now believes that Resolution 10 is not only in the best interests of the Sixth District, but all of the Association of the Idaho Bar.

JERRY SMITH, PRESIDENT: Thank you, Alberta. Sixth District Bar votes aye.

Seventh District Bar, 81 votes. Seventh District Bar votes nay.

First District, do you wish to cast a vote at this time? First District Bar, 65 members, votes aye. Resolution No. 10A passed, 446 aye to 234 nay. In exercising my prerogative while I am still in office, I am going to appoint a committee at this time with the indulgence of my about-to-be President Mr. Ryan. Do you object, Mr. Ryan, if I appoint a committee.

MR. RYAN: No objection.

JERRY SMITH, PRESIDENT: I would like to appoint a committee to resolve any areas of conflict in resolutions No. 10 and 10A and to write the appropriate legislation for eventual turning over to the Legislative Committee. On that committee, I would like Jim Lynch to act as Chairman. I would like Alden Hull to act as a member of that committee, and I would like Bill Furchner also to act on that committee. Since his district voted nay on one and aye on one, I want Bill Furchner to act as the other member of that committee. Any objections to these gentlemen? I realize that you live in different parts of the state and you will have to correspond and meet a time or two in Boise, or someplace, but I am sure you can arrange it.

JOHN BENGTON: Resolution No. 11: WHEREAS, the Idaho law provided, prior to the adoption of the Uniform Commercial Code, for the summary foreclosure of chattel mortgages, by notice and sale, which provisions furnished a short, inexpensive and valuable remedy for secured creditors; and

WHEREAS, the Uniform Commercial Code, as adopted by the Idaho legislature, does not provide for comparable summary proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Idaho State Bar Association, in convention assembled, at Sun Valley, Idaho, July 4-6, 1968, urge the Idaho state legislature to adopt legislation reinstating, in substance, the summary foreclosure provisions of prior Idaho law as an alternative to the provisions now found in the Uniform Commercial Code.

Appended to the resolution is the suggested legislation which I will not read. It is substantially reiterating the old foreclosure.

Mr. President, I move the adoption of Resolution No. 11.

JERRY SMITH, PRESIDENT: Any discussion as to Resolution No. 11?

DENNIS FAUCHER: I think that this can be done, all right, in the form of a Uniform Commercial Code, but I question if it should be done. I think there is an adequate remedy in the Code. The only place you get into any problem is where you can't get possession of the collateral, and in that case it is necessary to use the Claim and Delivery Act, but under the old

foreclosure if the debtor wanted to take you to district court, he could. But I think now it's getting to the place, if you can't get possession, you can bring a claim and delivery. I think normally you go that road, anyway. I think also the Uniform Commercial Code should be given a longer period of time to see if this is really a problem. I think it's going to be at least two years before we will know what the situation is in regard to the difficulty in obtaining possession. There is a provision in the Code that you can obtain possession in any manner you can do it without breaching the peace, and I think we should rely on this. Once possession has been obtained then it is a very simple matter to sell the collateral and apply it to the debt, so I urge that we vote against this resolution.

JERRY SMITH, PRESIDENT: Thank you, Denny. Is there any further discussion? Hearing none, the unit rule applies.

First District Bar, with 65 members. First District Bar votes aye.

Clearwater District Bar, with 71 members. Clearwater District votes aye.

Third District Bar, with 58 members. Third District Bar votes aye.

Fourth District Bar, with 234 members, votes nay.

Fifth District Bar, with 95 members, votes nay.

Sixth District Bar, with 76 members, votes nay.

Seventh District Bar, with 81 members, votes aye.

The resolution No. 11 has been defeated, 486 nays to 194 aye.

JOHN BENGTON: Resolution No. 12: WHEREAS, it appears that changes are necessary with respect to Rules 18, 21, 22, 26 and 27 of the Idaho Rules of Appellate Procedure in order to provide a more readable and workable transcript for the Court and Counsel, to make a more standardized form, and to reduce typing costs through the Clerk's office.

NOW, THEREFORE, BE IT RESOLVED by the Idaho State Bar Association at its 1968 Annual Meeting that a committee be appointed consisting of members of the Idaho State Bar Association to be selected by the Board of Commissioners thereof to study and work with the Supreme Court of the State of Idaho for the purpose of proposing amendments to the Idaho Rules of Appellate Procedure to accomplish the above purposes and that a report be rendered by said committee and be sent to each local Bar Association for study and recommendations to the committee.

Mr. President, I move for the adoption of Resolution No. 12.

JERRY SMITH, PRESIDENT: Any discussion?

JUDGE SMITH: In order to clarify a certain problem that exists in this, and I want to clarify it for the attorneys. We have already authorized the preparation of the Clerk's transcript by electro-data process to take care of that situation. We are recommending, and I think this came through our recommendation, that it referred to the local Bars that something additional be done with reference to the Reporter's transcript, and I think,

just so we all understand where it came from, I might say this, that the Reporters at their recent convention in Portland asked that the page of the Reporter's transcript be reduced to letter size, and therefore they will receive an increased fee. Our point is that this committee should study this certain aspect of the cost with reference to the page being reduced and typed as one original and then the balance of the copies of the transcript be bound by electro-data process, and also reducing the size. Incidentally, we do not want to specifically act as a court in this area. We want it to go to the local Bar. But we do want you to keep specifically in mind this last aspect that I have just stated. Now, I return for just a moment, to the Clerk's transcript in Ada County, for instance. Ada County has been subsidizing the preparation of transcripts some 20 to 25% above the cost that is allowed by statute. Now, most of this money goes to Reporters. That is another aspect we want the committee to keep in mind. That, of course, would be eliminated by letting the Clerk submit the Clerk's transcript by electro-data process.

JERRY SMITH: Any further discussion? It is the ruling of the Chair that this calls for the appointment of a committee to make a study. Therefore, the unit rule does not apply. All in favor, say aye. Any opposed? The motion was unanimously carried.

JOHN BENGTON: Resolution No. 13: BE IT RESOLVED by the Idaho State Bar Association at its 1968 annual meeting that the members of the Bar do urge and support the passage of H.J.R. No. 4 and H.J.R. No. 5 by the people of the State of Idaho at the general election in November of 1968.

If I might comment, Mr. President, this is the matter that was covered by Jim Lynch in his report of court modernization. Mr. Chairman, I move for the adoption of Resolution 13.

MR. JERRY SMITH, PRESIDENT: Any discussion? I think that this is a matter which has previously been passed upon by this body through the unit rule, so therefore it is the ruling of the Chair that the unit rule does not apply here.

MR. TOM MILLER: I would just like to point out that the Judicial Council passed a resolution in favor of both of these yesterday or day before.

JERRY SMITH, PRESIDENT: Any other discussion? All in favor of Resolution No. 13 signify by saying aye. Any opposed? Resolution unanimously carried.

JOHN BENGTON: Resolution No. 14: Whereas, the Honorable C. J. Taylor and the Honorable E. B. Smith will retire at the end of the year 1968 as Justices of the Supreme Court of the State of Idaho after long years of distinguished service to the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED that the members of the Idaho State Bar Association at the 1968 annual convention, do hereby honor and salute the Honorable C. J. Taylor and the Honorable E. B. Smith in recognition of their many years of service to the Bar and to the State of Idaho and in further recognition of their respective lasting contributions to the cause of justice in the State of Idaho, and

BE IT FURTHER RESOLVED that the Executive Director of the Idaho State Bar Association be instructed to present a copy of this resolution to Justice Taylor and Justice Smith with the warm regards of the Association and best wishes for continued health and happiness.

Mr. President, I move for the adoption of Resolution No. 14.

JERRY SMITH, PRESIDENT: All in favor, signify by rising and giving a standing ovation. I believe that resolution is carried.

JUSTICE E. B. SMITH: I desire, of course, to extend my warm thanks and appreciation on my own behalf and on behalf of C. J. Taylor for that resolution, and had I known anything like that would have come to pass, I would have dressed up a little and put on a necktie.

JERRY SMITH, PRESIDENT: Thank you, Chief.

JOHN BENGTON: Resolution No. 15: Whereas, lawyers of the State of Idaho can best serve the interests of justice and their respective clients through the continued study of law and changes in laws from time to time occurring, and

WHEREAS, the educational programs offered by the Continuing Legal Education Committee of the Idaho State Bar have been of exceptional value to practicing attorneys of this State in providing the highest degree of professional competence.

NOW, THEREFORE, BE IT RESOLVED by the members of the Idaho State Bar Association at the 1968 annual meeting that the Board of Commissioners of the Idaho State Bar, Continuing Legal Education Committee, and Mr. Robert E. Bakes, Director, be commended on the caliber of educational programs made available to the members of the Idaho State Bar, and

BE IT FURTHER RESOLVED that the members of the Idaho State Bar do hereby urge the continuation and support of said program.

Mr. Chairman, I move for the adoption of Resolution No. 15.

JERRY SMITH, PRESIDENT: Any discussion? All in favor signify by saying aye. Opposed? Unanimously carried.

JOHN BENGTON: Resolution No. 15: WHEREAS it is the opinion of the members of the Idaho State Bar Association that the Probate Procedures in the State of Idaho are in need of revision and modernization,

NOW, THEREFORE, BE IT RESOLVED by the Idaho State Bar Association at the 1968 annual meeting, that a committee of the Idaho State Bar be appointed by the Idaho State Bar Commissioners to conduct a thorough study and review of the Idaho Probate Code and to make recommendations for amendments to the laws of the State of Idaho to provide for more efficient and less costly administration of estates.

Mr. President, I move for the adoption of Resolution No. 16.

JERRY SMITH, PRESIDENT: Any discussion on resolution No. 16? Yes, Justice Smith?

JUSTICE E. B. SMITH: Since in the near future I will be paying dues, and I'm wondering where the resolution says administration of estates in a more efficient and at less cost, is there any doubt in anyone's mind as to the reasonableness of the cost at the present time? Is there anything wrong with the reasonableness of attorney's fees as outlined by the statute or advisory fee schedule?

JERRY SMITH, PRESIDENT: I am going to ask the Chairman of the Resolutions Committee to answer your question.

JUSTICE SMITH: Well, a resolution was passed a little while ago authorizing the amendment of the advisory fee schedule to be amended to increase the attorney's fees. I just don't see where the attorney's fees are unreasonable. I think the other part of the resolution is well taken.

JOHN BENGTON: It was the feeling among the committee, Justice Smith, that if we modernize it may very well reduce the costs.

JUSTICE SMITH: I would like to have the committee still keep in mind that those costs of attorney's fees are not out of line.

JOHN BENGTON: Of course, this only calls for a committee to study the matter. The committee may wholeheartedly concur with your views, Your Honor.

JERRY SMITH, PRESIDENT: Any further discussion? Cecil Hobdey?

CECIL HOBDEY: I move that the resolution be tabled.

JERRY SMITH, PRESIDENT: Motion to table having been made, all in favor signify by saying aye. Any opposed? Motion to table defeated. Is there any further discussion on Resolution No. 16. Actually, this calls for a study and does not require the unit rule to be enforced, so all in favor, will you signify aye. Opposed? Resolution 16 carries.

JOHN BENGTON: Resolution No. 17: WHEREAS, through their cooperation and support of Bar activities the members of the staff of the University of Idaho College of Law have made a meaningful and lasting contribution to the success of the programs of the Idaho State Bar and have truly rendered a service of great value to the legal profession in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Idaho State Bar at the 1968 annual meeting that we express to the members of the staff of the University College of Law our deepest appreciation for their support of the Idaho State Bar and their service to the profession in the State of Idaho.

Mr. President, I move for the adoption of Resolution No. 17.

JERRY SMITH, PRESIDENT: All in favor, signify by saying aye. Opposed? Unanimously carried.

Any further resolutions?

MR. BENGTON: Mr. President, this concludes the report of the Resolution Committee. I thank you all for the courtesy you have shown us.

JERRY SMITH, PRESIDENT: I have one more resolution and that is that the Resolution Committee be commended by this Association for all of the fine effort and work and time that they have spent in the consideration and preparation of these resolutions. Now, the hour is a little late, and this is the time for me to make an address, and I guess I will have to employ the advice of my good friend, Ed Benoit, when he was President and I was Junior Commissioner. He was retiring from office and he said, my address is such and such a box in Twin Falls, Idaho. Mine is the Weisgerber Building, Lewiston, Idaho, and I think I will be there for quite a little time in view of the work that I promised various clients to get out in the next few months. They have been very patient with me for the last year, bless their hearts. I want to recognize sitting down here in the front row, the Hal Ryan Fan Club. Would you please stand up, gentlemen. This is Kim Ryan to your right, Mike Ryan in the center, and this is Brad Smith. I don't know what he's doing standing there. You may be seated.

I have had an enjoyable year. It has been a rewarding experience, and I have enjoyed working for you. I have enjoyed working with my brethren on this Commission. I come to this moment with mixed emotions. I now have the joy of introducing our new President, Hal Ryan. Hal Ryan.

HAL RYAN: Jerry, thank you so much. The first and the best thing I will do all year is having the privilege of awarding to you, through the courtesy of the Mutual of Omaha, a beautiful plaque with a gavel on it for you to hang in your office and show your patient clients.

JERRY SMITH: Thank you, very much. I will certainly treasure this all of my life.

HAL RYAN: Jerry left me a couple of duties to do before we close this meeting. One of them is to finish with the drawing.

(Drawing concluded—Mr. Smith presented with gifts from Mr. Ryan and Mr. Jones, the wives of the Past President and new President, Secretary of the Bar, the new Commissioner, and the outgoing Commissioner, were all recognized.)

HAL RYAN: I am going to close this meeting up quite promptly, but in doing so I want to thank you for the opportunity that I had in serving you. I thoroughly enjoyed yesterday on the golf course where I made expenses and I want to thank Jess for that. We have a great job to do in this Bar Association in Idaho, and I have learned a lot about what this Bar has been doing, a lot more than I knew before. We have a big job ahead. I think probably the prime reason I was appointed on this Commission was the work that I had heretofore done on the court modernization through the Legislature, and I think yet today that is the biggest task facing us, to complete the package that was started. The Idaho State Bar has been working on this court modernization legislation for some period of years, but I think the end of that road is to give the people of Idaho a better court structure from which to work with. I ask you all to support the Commission, to support Jim Lynch who is really carrying the ball for us in the Legislature, getting this through the Legislature, and the signature of our Governor. I want to thank particularly Bob Bakes on the job that he did on the

CLE and particularly the lawyers that have come to these programs and supported these programs. They're getting better and better each year, and I am sure that you will find in the future they will be more worthwhile than ever.

We certainly have a job for the Bench-Bar-Press to carry on the principles. We ask your help in this area. We ask above all for your suggestions, and that you feel free to write to anyone of us, and we, of course, a year from now, will be convening in Sun Valley with, for the first time in history, anyway to my knowledge, with the Utah State Bar, which has 1200 members. The format will be changed a little bit, but I am certain it will be very interesting. The Utah State Bar has some 1200 members, and with us today we have Scott Matheson, the President of the Utah State Bar. Would you please stand and be recognized, Scott.

And at this time I will adjourn this annual meeting of the Bar Association.

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