

Proceedings

of the

Idaho State Bar

VOLUME XXXIV, 1960

Thirty-Fourth Annual Meeting

SUN VALLEY, IDAHO

July 7-8-9, 1960

Past Commissioners

Western Division

JOHN C. RICE, Caldwell, 1923-25	C. W. THOMAS, Burley, 1939-42
FRANK MARTIN, Boise, 1923-25	E. B. SMITH, Boise, 1942-48
JESS HAWLEY, Boise, 1927-30	CLAUDE V. MARCUS, Boise, 1948-51
WM. HEALY, Boise, 1930-33	T. M. ROBERTSON, Twin Falls, 1951-54
JOHN W. GRAHAM, Twin Falls, 1933-36	WILLIS E. SULLIVAN, Boise, 1954-57
J. L. EBERLE, Boise, 1936-39	SHERMAN J. BELLWOOD, Rupert, 1957-60

Eastern Division

N. D. JACKSON, St. Anthony, 1923-25	PAUL T. PETERSON, Idaho Falls, 1943-46
A. L. MERRILL, Pocatello, 1925-28	R. D. MERRILL, Pocatello, 1946-49
WALTER H. ANDERSON, Pocatello, 1928-34	RALPH LITTON, St. Anthony, 1949-52
E. A. OWENS, Idaho Falls, Pocatello, 1934-40	L. F. RACINE, Jr., Pocatello, 1952-55
L. E. GLENNON, Pocatello, 1940-43	GILBERT C. ST. CLAIR, Idaho Falls, 1955-58

Northern Division

ROBERT D. LEEPER, Lewiston, 1923-26	PAUL W. HYATT, Lewiston, 1941-44
C. H. POTTS, Coeur d'Alene, 1926-29	E. T. KNUDSON, Coeur d'Alene, 1944-47
WARREN TRUITT, Moscow, 1929-32	E. E. HUNT, Sandpoint, 1947-49
JAMES F. AILSHIE, Coeur d'Alene, 1932-35	ROBERT E. BROWN, Kellogg, 1949-53
A. L. MORGAN, Moscow, 1935-38	RUSSELL S. RANDALL, Lewiston, 1953-56
ABE GOFF, Moscow, 1938-41	CLAY V. SPEAR, Coeur d'Alene, 1957-59

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 THOMAS A. MILLER, Boise, Secretary

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 Third District Bar—J. Chas. Blanton, President, Boise
 Fourth and 11th—Charles H. Creason, President, Rupert
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 Seventh District—James E. Schiller, President, Nampa
 Eighth District—Peter B. Wilson, President, Bonners Ferry
 Ninth District—Gilbert C. St. Clair, President, Idaho Falls
 Twelfth District—J. F. Bates, President, Rigby.

SPEAKERS



FRANK E. HOLMAN
Seattle



ALBERT E. JENNER, JR.
Chicago



F. TROWBRIDGE VOM BAUR
Washington, D. C.



HON. HENRY McQUADE
Boise



CARL F. CONWAY
Osage, Iowa

Sun Valley, Idaho
Thursday, July 7, 1960, 1:30 p.m.

PRESIDENT SHERMAN J. BELLWOOD: The 1960 annual meeting of the Idaho State Bar will come to order. I will now call on the Reverend W. D. Ellway for the invocation.

REV. W. D. ELLWAY: Ladies and gentlemen, will you please be seated. Mr. President, Mr. Secretary, Governor Smylie, ladies and gentlemen: It is a pleasure and an honor to be here this afternoon, and I appreciate it.

I would like to apologize in front of everyone to Mr. Anderson for the kind of concern I gave him as to whether I was supposed to be here or not. I don't know whether I didn't answer one of his letters, but it finally got around that I would be here.

Before I give the invocation, I would like to say a few words for a few minutes. You gentlemen and ladies who are following the profession of the law are people with a very great responsibility. In fact, sometimes maybe you do not realize it fully what your responsibility is, not only to the community in which you live, but also to your country, and more pointedly, I think, in these days, to the whole world.

Ever since the beginning when man began to live in society, he developed the laws that enabled him to live in peace and security with his fellow man. Those laws, even in pre-Christian times, were undoubtedly inspired by God, the Creator, the lover of all men. And when the time came for God to speak rather more specifically to a chosen race of his people, he gave them the Ten Commandments. He gave them ten basic laws there.

I don't know if you ever noticed that—maybe God realized it—it is rather more difficult to do your duty to your neighbor than it is to do your duty to God. He gave us four commandments for duty to God, and six to our duty to our neighbor.

The ramifications of society are such since that time that, as I saw one quotation put it, God gave us ten basic laws, but mankind has added a couple of million to interpret them. And I think God expected that. And you ladies and gentlemen, I am sure you realize that in this present day and age that you are the group of people who are trusted less than any other professional group in this country or anywhere else.

It is unfortunate that in so many ways that suspicion of the legal profession in the layman's mind should be accentuated in so many ways. We think of the plays, the T.V. pictures, the books that are written. In very few instances do they place the lawyer in a favorable light.

And, of course, one of the most widely read, I suppose, of books of those kind—I read most of them—are those of that fine gentleman and great citizen, Earl Stanley Gardner. But, if you think of any of his books, we see Perry Mason, who always wins the case, resorting very often to means to achieve an end that are quite, you know, not really what they should be, with all due respect to him and his creator.

We see the Prosecuting Attorney in those books, and the others who are his opponents, depicted as dim-wits and as followers of the legal profession who would resort to any means to obtain a conviction.

All this impresses itself upon the minds of the public unconsciously, and I think that that way of thought has grown up because the legal profession is something that by its very nature is intensely complicated. How often in a civil case do we find it possible to say that one person is absolutely right, or another is absolutely wrong. The fine ideals of liberty and justice for all that permeates the thought of this country give even the worst criminal the greatest chance of proving his innocence, which naturally leads the public mind's thinking to the concept that the lawyer is as big a crook as he is.

We know that in every profession there are men who are unethical. We know that this is unavoidable, human nature being what it is. And so, it behooves all of you to try and give special care to exercise this gift which God has given you that people everywhere may have confidence and trust in that which you do.

It is true that people only come to you when they are in trouble of one kind or another. And they expect advice which it is almost impossible for you to give on many occasions. The intricacies of the law are such that when I go into the office of my good friends Fez Taylor and George Kneeland, they have books scattered all over the place. I am lucky. I have only one text book, the Bible. It takes longer to find out a ruling, I imagine, in your law books than the case is worth sometimes, the intricacies of modern civilization being as they are.

But, as I have said so often to so many people we,—as Paul wrote—and of course he had one of the first legal minds that the world has ever known, if you stop to study his writings—he said that God has given to men the diversity of gifts, and that to most men he has given one special one. To you God has given a special one, to uphold and promulgate the laws that continue to advance society according to his plan until there is peace and prosperity for all in the world.

For in this country, as in so many others, those of your profession divulge the successful running, if one may use that word, of this country. From your ranks come the governors of the states, so often. Able governors such as we are proud to have here in Idaho. I can say that all right. I am neither a Democrat or Republican. I am not even a citizen yet. And all the way up the line, yours is the responsibility for the safety and security of this nation, and of an increasing number of people not of this country.

We see in the world today a clash between two ideologies. The Russians with their Godlessness, the Communists. They have erected a God in their minds. They have erected a God of the earth, the God of the state.

Behind all your legal training, all your legal background, you can never—even if you are not practicing Christians—if you are going to do your duty in this land of liberty and justice and freedom, there should be in the back of your mind always the sense of reality, such as there is in the great scientists of today more and more, the sense of the reality of God, the true God who is above things of the earth, and to whose heart we should endeavor to strive.

I would say to you always remember that. Try and remember the history of the nations that have collapsed in the past. The Roman Empire, with its wonderful legal system collapsed because it could see finally no further than the aims of every day life. It could not see to the higher things.

And so, ladies and gentlemen, I ask you in the name of the Lord, and as one who has grown to love this country, and as one who even as a boy did as this

in your hands at this serious time is placed all that the words liberty and justice and freedom mean; not only in your own communities, in your own dealings with people, but the safety and security of this country, and of the whole world of which it is the leader at this time.

I appreciate your patience in listening to me for this few minutes. It is something about which I feel real deeply. But I hope you will exercise that God-given gift with greater clarity for the public and the world, and not so many more whereas's and wherefores. That's what confuses them, you know. That you will also, while you are here in Sun Valley, have a very happy time together and enjoy yourselves. And I assure you, although as Governor Smylie said that I had direct communications with higher sources as to what the weather was going to be like for your barbecue, I do assure you it will have cleared up by then. (Editor's note: It rained)

Please stand in prayer.

Oh, God, the father of all, who has given diverse gifts to men, we pray thee at this time for these who have been given a particular gift. Grant that they may use it for the furtherance of thy kingdom of peace and love and trust and understanding and freedom and liberty and justice. And may they so pursue their vocations that as they earn their daily livings others may be helped by their endeavors. That the prosperity and peace and happiness that should be a part of each community may spread to the whole country and to the whole world through their endeavors in whom this trust is given. And grant at this time a happy and pleasurable time for all gathered together here. May new friendships be made and old friendships renewed, and may thy blessings be with them always for the sake of thy loved ones. In the name of Jesus Christ, our Lord, Amen.

And may the blessing of God Almighty, the Father, the Son and the Holy Spirit be with you all and remain with you all this day and forever. Amen.

PRESIDENT SHERMAN J. BELLWOOD: At this time I would like to reintroduce to the association the Honorable Robert E. Smylie, our Governor. Bob:

GOVERNOR ROBERT E. SMYLIE: Mr. President, Commissioners, my Reverend friend, distinguished jurists, members of the bar, ladies and gentlemen: I am most gratified to be able to be here with you today, and I regret that the other distinguished members of the bar, Mr. Church and Mr. Budge, who were to share this platform with me are not able to be here. It would have been most pleasant, but I suspect that I am better off by reason of their absence, because playing third man on a batting order like that would tend to produce some difficulties.

Mrs. Smylie asked me to express her regrets she is unable to be here too, but we have got a six year old at home named Steve, who by his own present estimate I take to be about nine feet tall. And he decided last week he could swim as well as his older brother, who swims quite well. And knowing Steven, he would be proving it. So he has been engaged all of this week and next in attempting to match his physical prowess with his intellectual estimate of his ability. And by the time two weeks are out, he will swim or be the most water-logged boy in Idaho. And if he is, we will be able to sleep in the sun a little while longer.

Your good Secretary told me I should say three to five minutes of welcome, and I am afraid he will have to bear with me a little longer than that, because I

enough to suffice for me to even say a few well chosen words. And your thoughts tend in this business, I find, to get longer and perhaps less understandable.

I only once upon a time heard of a lawyer who was able to get it said in five minutes, and with due apologies to the gentlemen from the high court who are in the audience, I might relate this occasion to you. The late Jack Smead, who worked with me in the Attorney General's office, was arguing a case before the Supreme Court entitled *State against Garrett*, second go round. This is a case that had come up in Judge Buckner's Court in Canyon County, and under the new law, Judge Buckner had wound up and sentenced this man to five years in the penitentiary for selling a drink without a paper he was to get from the state. Well, the Supreme Court decided that the law wasn't in effect, and they remanded the case to the District Court with instructions on the mandate to sentence as for a misdemeanor, and the Judge sentenced for a misdemeanor. Of course, there had been no proper procedure antecedent to the misdemeanor sentence, so counsel appealed again. And Mr. Smead argued the case on behalf of the State in the Supreme Court of Idaho. And, he got up and said that he had with him here a certified copy of the mandate of the Court that the record disclosed that the district judge below had read that mandate into the record, and proceeded in accordance with it. And if error had been committed, it had been committed in this Court. And with that he thanked their Honors for listening to him and sat down. And per curiam, I might add, the decision was affirmed unanimously. But, that's the only time I ever heard a lawyer take five minutes to tell what he had to say. And with your permission, I would like to run over a few of the things that we are putting together in the preparation for next winter's State of the State presentation to the legislature, and the budget which will be submitted ten days after the legislature convenes.

It may come as a surprise to some of you to know that we are already at it, but the machinery that produces one of those documents normally goes into high gear about April of the year before. And so, some of the things that might interest this body are reasonably well defined now in staff and administrative thinking. And it seems appropriate perhaps to bring them to your attention.

I am hopeful that this association and my administration can continue our effort to improve the qualifications required for the election or appointment to the offices of Probate Judge and Justice of the Peace. I am hopeful, too, in this next session of the legislature we can achieve a rather dramatic increase in judicial salaries in order to hold on the bench the high caliber of practicing lawyers such as now occupy our district and supreme benches. Too, that we can relieve the budget office and State Auditor of some of the clerical chores which they now perform for the courts, not because they have any reluctance to perform those duties, but it seems to me somehow inappropriate, in view of the doctrine of separation of powers, to have the court, or the courts, in any way dependent upon the executive branch of the government. And for that reason I suspect that we will be suggesting that the Clerk of the Supreme Court be designated as the administrative officer of our courts, with appropriate statutory changes, and it would be hoped changes in compensation.

And I am hopeful, too, that we will be able to support the creation of additional judgeships in those districts which the Court Coordinator has already found to have rather continuously over-crowded dockets.

A little research will indicate to you in this matter of judicial salaries that the salaries we pay our judges now are but a little higher in real dollars than the salary

that was paid in the original organic act in 1891. And it is perhaps a little indelicate to discuss judicial salaries, but I think the issue must be squarely faced if we are to have the high caliber men in our judicial positions who are now in those positions. And I think we are going to have to make the rewards commensurate with the responsibility. And I think nothing less than a dramatic increase will now do the job. I am hopeful that many of you will make members of the legislature aware of the fact that compensation paid to our judiciary is somewhere in the lowest range in the fifty states, and there are only 13 states in the nation who pay salaries under fifteen thousand to District and Supreme Court Judges.

I am hopeful that, not rapidly enough to hurt anybody, but rapidly enough to show deliberate progress, we can move in the direction where the probate courts will be manned by persons trained and skilled in the law. I think that the jurisdiction confided to those courts in most of our counties now rises in caliber to the place where it is a mistake, not on behalf of the lawyers, but on behalf of the litigants and the people themselves, to have the administration of that jurisdiction committed to untrained hands.

You know, because you practice in the courts, that some of our court dockets are so crowded it is a little difficult for justice to be administered with dispatch and speed, which is characteristic of true justice, and which is in fact commanded by our Constitution. For that reason I think we are going to have to have additional judgeships in one, and perhaps more, of our judicial districts. And I think that the Bar generally should be heard in support of that proposal.

I think the Clerk of the Supreme Court frankly had ought to be rescued from the legislative control under which that office has lived these many years. I have a feeling that you could write a pretty good brief that the Supreme Court itself has the authority to set the compensation of that officer, which is peculiarly its own officer, and that possession of authority by the legislative body is in fact a transgression of the separation of powers which characterizes our government.

Some of the paper work that the auditor and the budget officers do have the effect of granting to them--in the practice of government over the years--the power to perhaps--although I don't know that it's ever been used--say no to the court in the expenditure of funds appropriated to it by the legislature. I doubt if this is a real problem, but I do believe that the courts had ought to administer their own fiscal affairs, and I believe that the Clerk of the Supreme Court is a logical place to place that duty. It concerns me largely as a matter of principle that we in any way suggest subservience on the part of our courts to the executive branch of the government. And certainly, I think all of you would agree that to do so is to do violence to the doctrine of separation of powers upon which so many of our freedoms really depend.

It is a real pleasure to join with you in this convention here at Sun Valley. It is especially important in this year. I think we all realize our heritage of individual dignity and freedom, to which the Reverend addressed himself so eloquently, is being challenged in every intellectual and commercial market place in the world. The vitality and exactitude of your system of law, and justice under law, must be continually improved with imagination and soundly conceived attention to our basic and fundamental values.

For, I suppose, there could be no disagreement now that all that's worth while in western Christian civilization now marches with our banners, ours to protect

for better or for worse, and the race against us plainly for us and for all the world to see is the dark violence of that communist slavery from which history tells us there is no return. And we lawyers, we students of English freedom bottomed on the Christian doctrine of individual human dignity, understand that challenge. And I think we will meet it. We must, and I think we will keep our institutions of justice in tune with the human needs of our people; institutions of justice that are vital, strong and vibrant. And in doing so, we will do our part individually and collectively as a profession toward leading the uncommitted peoples of this world, in whose hands really the decision of the next decade lays, across the great threshold of freedom into a day when pray God we can find a world where all men can live in freedom, in justice and in peace, and in dignity, unmolested and unafraid. Thank you.

PRESIDENT SHERMAN J. BELLWOOD: Thank you very much, Governor Smylie for being with us today. We have with us two distinguished guests that I would like to introduce to you: Stanley M. Doyle, President of the Montana Bar Association sits right over here. And George F. Balliff, President of the Utah State Bar back here. We are glad to have both of you with us, and hope you enjoy yourselves while you are here.

At this time I would like to call on the Honorable Henry F. McQuade, Justice of our Supreme Court, for his address, "Insight into Supreme Court Procedure." Justice McQuade.

(Then followed his address, the text of which is on file in the Idaho Bar office, Boise.

PRESIDENT SHERMAN J. BELLWOOD: Thank you very much, Justice McQuade, for your enlightening remarks. We appreciate them.

Those who will serve on the canvassing committee to canvass the votes in the Western Division for Commissioner will be Wynne Blake, Chairman, Cal McIntyre and Bill Furchner. You will meet in room 233A in the Lodge, where the ballots are, and you can make your arrangements with the Secretary. Your report is due tomorrow morning.

Jack Hawley will be the official parliamentarian for the business meeting this year.

The resolutions committee will meet here in this room immediately following our afternoon session today.

(At this point a short recess was had.)

PRESIDENT BELLWOOD: Will the meeting please come to order?

At this time we have what we consider to be one of the highlights of our program, and I am going to turn the meeting over to Orval Hansen, chairman of our World Peace Through Law Committee. Orval Hansen.

(At this point, Orval Hansen introduced Albert E. Jenner, Jr., Chicago, Ill., and Frank E. Holman, Seattle, Wash., and their debate, "Should the Connally Reservation Be Repealed by the Congress of the United States?" followed.)

MR. HANSEN: To you, Mr. Holman and Mr. Jenner, we should like to express our sincere appreciation for coming to Idaho to be with us at this annual meeting, and to present forcefully, ably and lucidly, as you have, both sides to what we will all concede is a very important question.

PRESIDENT BELLWOOD: On behalf of the Idaho State Bar, I join in Mr. Hansen's remarks.

Before we adjourn, I would like to remind again the resolutions committee they will resume deliberations here in this room immediately following adjournment.

I will remind you to look at your program for the events that continue in our meeting.

We are now adjourned until 9:00 a.m.

Friday, July 8, 1960

PRESIDENT BELLWOOD: I have here a telegram from Hainer Budge who was scheduled to give a few remarks yesterday. "Very much regret I am unable to leave Washington in time to be with you. Please convey my regrets and best wishes to those present."

Is the chairman of the canvassing committee present? Bill, I wonder if you would come up and give the report of the canvassing committee?

MR. BILL FURCHNER: Mr. President, members of the Idaho State Bar, the canvassing committee reports the election of your new Commissioner from the Western Division, Glenn A. Coughlan, Boise.

PRESIDENT BELLWOOD: Is Glenn present? (No answer) We will introduce him later then.

At this time I will ask Dale Morgan to come to the podium and introduce our first speaker this morning.

MR. DALE MORGAN: Mr. President, members of the State Bar, ladies and gentlemen: You are all no doubt familiar with the old story about the priest who was also a golfing enthusiast. And in discussing the matter with his friend one morning the subject came up as to how he maintained a proper balance between his activities as a priest and his hobby of golf. He said, "Well, it is like this: If my scores are above ninety, I know that I am neglecting my golf. If they are below ninety I know that I am neglecting my parish." We, admittedly, as these meetings intend to do two things; to have a good time and renew our acquaintances with members of the bar we don't ordinarily see, and also to benefit from the meetings. Noting our diminished ranks this morning, I would at least be constrained to observe that we are not neglecting having a good time.

Our first speaker this morning is a man with whom I have had the pleasure of spending most of the day and evening yesterday. He is a man of impressive erudition. He graduated from the undergraduate school of Amhurst, and Harvard Law School. And from 1933 to 1942 was engaged in private practice of law in the City of New York. Subsequently, he has served in federal practice with various government bureaus, the last being with the Navy Department, serving as General Counsel since 1953. He is now engaged in private law practice in the firm of Hensel and von Baur in Washington, D. C.

In addition to his wide practice, he has also authored a text on Federal Administrative Practice published by Callahan and Company.

For many years he has devoted himself to the interests of the Bar, and has served as a Delegate in the American Bar Association House of Delegates for the

past ten years. He has been interested in the administrative law section, and later in the unauthorized practice of law section, in that field appearing as counsel in a number of cases in various states in which the Bar was interested in limiting and defining unauthorized practice of law.

It is with great pleasure I introduce Mr. F. Trowbridge vom Baur, whose subject will be "Unauthorized Practice, a Strong Bar, and the Public Interest."

MR. F. TROWBRIDGE VOM BAUR: Thank you, Mr. Morgan. Mr. President, gentlemen of the Idaho State Bar: It is an honor and a pleasure for me to have this opportunity to address you this morning on a subject which I, at least, think is of very great importance to us all.

I am reminded a little bit of an incident involving one of our Navy lawyers—I still say "our Navy lawyers." I still wonder if I am not still in the Navy—in London three or four years ago. The office of the General Counsel of the Navy has a little office in London. One day one of our lawyers there was in a British Court. There was a young British barrister haranguing away, and the Judge was looking awfully bored. Finally, he broke in and said, "Well, I have been listening for an hour now, and I don't believe I am any the wiser." Quick as a flash the young barrister came back at him and said, "Not wiser, perhaps, my Lord, but I trust better informed." Well, I don't expect any of you will be any the wiser when I finish. I am not even sure about your being better informed. In fact, I will be very happy if I can retain your attention.

Now, this subject, "Unauthorized Practice, a Strong Bar and the Public Interest," is a subject to me of very considerable importance. I find, however, that one of our problems is most lawyers just don't know what the unauthorized practice of law is. And so we might clear that away at the outset. Just what is the unauthorized practice of law? Well, fortunately, there is a clear answer to this. The unauthorized practice of law is practice by unqualified persons.

Well, I can see you sitting back saying "Oh, sure, sure, okay, it is the practice of law by unqualified persons, but so what." Well, if there were no prohibition against the unauthorized practice of law, there would be no legal profession at all. In short, the prohibition against unauthorized practice is co-extensive with the very existence of the legal profession itself. As I say, if there were no such prohibition, everybody would be engaging in the practice of law, accountants, corporations, barbers, farmers, electricians, engineers, real estate brokers, life underwriters, banks and all sorts of other enterprising lay agencies and individuals. There would be no legal profession as we know it today, guided by the standards of character, ability and judicial supervision, and there would be no judiciary as we know it today. So, to repeat, this prohibition against unauthorized practice is co-extensive with the very existence of the legal profession.

Our one great difficulty is that unauthorized practice is a kind of awkward stepchild as far as recognition is concerned. The law schools, you see, devote their curricula largely to commercial subjects and material rewards. Very little, if anything, is taught in the law schools these days about professional responsibility or even about the legal profession. I am happy to say, however, that there are a few innovations of this kind taking place.

As far as practicing lawyers go, unfortunately, there is no particular way they may get interested in it. The law schools don't help them, and usually they become interested in the field only if their own particular ox is gored or they

develop a strong sense of professional responsibility. And then we find that those lawyers who have perhaps the greatest interest, the keenest sense of professional responsibility, tend to fall in love with the subject, perhaps, and never really get it out of their system.

Now, in order to understand all this, I think a certain amount of historical background is necessary. And, if you will bear with me, I would like to ask you to turn your minds back quite a distance to the year 1178. Because what I am going to show you is that the bar did not come first and unauthorized practice second. What happened was the reverse; the practice of law by unqualified persons came first, and the bar arose later as a result of the damage done by these unqualified practitioners.

Now, in 1178, Henry the Second—this was about a hundred years after the Norman Conquest—appointed five clerks to spend full time adjudicating cases. Prior to that time, as you may know, we had the old curia regis in England where the court pretty much followed the king in his travels around England. And whenever the king got bored, he would say to one of his minions, "Let me hear a couple of cases. Bring up a couple of juicy cases because I would like some entertainment." The result was the court followed the king around pretty much until this year of 1178, when Henry the Second decided that litigation and adjudication was a full-time business. And, as a result, he designated five clerks to spend full time adjudicating cases. And as Pollock and Maitland tell us, this was the beginning of the central courts of England; the formulation of the judiciary as we know it in our country today. Following the Magna Carta of 1215, the Court began to sit in the Great Hall of Westminster. And as Pollock and Maitland also tell us, within the next hundred years a legal profession began to develop around the courts so established. Finally, about a hundred years later, in 1292, this subject of unauthorized practice, believe it or not, actually came to the fore.

Let me read you, if I may, from a rather interesting statute that was passed in 1292. In that year Edward the First authorized John De Mettingham, then Lord Chief Justice of the Court of Common Pleas, and the rest of his fellow Justices of that Court, to appoint a certain number of—and I am quoting now—"Attorneys and lawyers of the best and most apt for their learning and skill, who might do service to his court and people. And that those so chosen only, and no others, should practice."

The King and his Council then deemed the number of seven-score to be sufficient for that employment, although the number was thenceforth left to the discretion of the Justices.

Let me point out to you two important features of this little statute of the year 1292. The first was that these attorneys and lawyers who were to be selected were to be the best and most apt for their learning and skill. In short, they weren't to be just a bunch of boobs; they were to have possessed these features of learning and skill. And secondly, the objective in selecting these people was to select those who might do service to the king's court and people. And as I am sure everyone in this group knows, this is the foundation of the legal profession. We do make a living at it—or try to these days—but fundamentally we are here to render public service. That is the only reason for our existence as a profession.

Well, now, let me pass on, if I may, to 1454. Here I will quote again briefly. In 1504 a gentleman named Herborn wrote a book called "Antiquities of the Inns Court and Chancery," and in it he said the following: "In 1454 an act of Parlia-

ment notices 'that there was used formerly six or eight attorneys for Suffolk, Norwich together; that this number was now increased to more than eighty, most of whom being not of sufficient knowledge; came to fairs, etc., in citing the people to suits for small trespasses, etc.; Wherefore there shall be hereafter but six for Suffolk, six for Norfolk, and two for the City of Norwich.'

Again I should like to point out to you, if I may, that as far back as 1454 these unsavory characters were described as being "not of sufficient knowledge," and also for their lack of ethical conduct in citing the people to suits for small trespasses. In any event, the point I would like to make to you is that out of all this, as was stated in a leading case in Rhode Island, *Rhode Island Bar Association versus Automobile Service Association*, 55 Rhode Island 122, 179 Atlantic 139, Judge Condon of the Supreme Court of Rhode Island said in his opinion that "the bar arose out of a public demand for the exclusion of those who assumed to practice law without adequate qualifications."

Therefore, this is the major point I would like to make now to you ladies and gentlemen. It was not the bar that came first and unauthorized practice second. It was unauthorized practice, the practice by unqualified persons, which came first. And because of the injury to the public which arose from their acts, the bar arose as a result of public demand in order to create a legal profession based, as Judge Condon put it in the same case, upon the elements of character, ability and judicial supervision. And, in turn, the bench itself in this country is drawn from a bar governed by such standards.

Well, following this development in England, and there were similar developments in other countries in Europe, notably France, the legal profession reached great heights prior to something which we may perhaps call the Industrial Revolution. And as you may remember, in 1835 or thereabouts there was a French novelist named Stendhal made the following remark. He said: "Le siecle est aux avocats," meaning "The century belongs to the lawyers." And in this period prior to approximately the time of the Civil War there was no profession, no group, which had a greater reputation or more in the public eye than the legal profession.

And then, ladies and gentlemen, something new was added. That was the element I have mentioned, the Industrial Revolution. Now, perhaps none of you may think this has much connection or relationship to the legal profession, but let me tell you, as best I can, about it.

Perhaps the most significant feature about the Industrial Revolution was the fact that in contrast to past history it provided for the manufacture of all types of property. Prior to that time property had been pretty simple. You had agriculture and very, very few elementary manufacturers, but with the Industrial Revolution all kinds of property began to be multiplied and precipitated out by that marvelous machine. And by 1900, as one historian has put it, there had been a great increase in material wealth, but with a notable lack of spiritual wealth. And this increase in material wealth, from a standpoint of the legal profession, was accompanied by a few distinctive features. One of these was the practice of law outside the court room. Now, this is important because in the past the practice of law had been confined pretty much to the court room.

In any event, it was a tremendous period of confusion and uncertainty. And the troublesome feature of this increase in the practice of law outside the court room was that in nearly every case it was not accompanied by any statutory pro-

hibition against the practice of law outside the courtroom by persons who were not lawyers. You see, as history developed, it had become clearly established that only lawyers could practice in the court room. But then, as this new feature of the practice of law outside the court room developed, there were no corresponding statutes which prohibited such practice by people who were not lawyers.

And what was the result? The natural result was that "enterprising citizens," as one writer has put it, moved into the field and began to practice law. Corporations were among the greatest offenders, particularly around the turn of the century. Also, although you may say this is not news to you, this was a period of doubtful business practices and doubtful ethical conduct on the part of business and also on the part of the professions. But until Theodore Roosevelt came along around the turn of the century little of importance had been said in this country about ethics in connection with business and the professions. Interestingly enough he raised his powerful voice on the subject; and he demanded decency, morality, honor, integrity and fair play by business and also by the professions. Indeed, he made a single magnificent speech at Harvard University before the alumni of Harvard University in 1905 which had far-reaching results. I don't know whether I should mention Harvard here, but what he had to say completely transcends Harvard. So, if you will excuse me for mentioning that connection, this is what he said: "This nation never stood in greater need than now of having among its leaders men of lofty ideals which they try to live up to, and not merely talk of." And then he went on to say this: "The great profession of the law should be that whose members ought to take the lead in the creation of just such a spirit. Surely Harvard has the right to expect from her sons a high standard of applied morality, whether their paths lead them into public life, into business, or into the profession of the law, whose members are so potent in shaping the growth of the nation's soul."

Well, this speech struck America like a bomb shell. Alone, it resulted in the passing by the American Bar Association in 1908, three years later, of the Canons of Professional Ethics and the Canons of Judicial Ethics. It resulted in the passing of similar Canons of Ethics by the American Medical Association in 1912, and within ten years, from 1905, some 200 organizations, as a result of this single speech, had passed canons of ethics of one sort or another. Also, soon, there began to be a reaction so far as the legal profession and the practice of law was concerned. In 1909 the State of New York passed Section 280 of the Penal Law, prohibiting corporations from practicing law. Think of it! Prior to that time in that great industrial state, which has had more problems perhaps of this character than any other, there was no prohibition against the practice of law by corporations. Then in 1917 a leading New York case had occasion to refer to the growing number of corporations entering the field of practicing law. But these were voices crying in the wilderness.

Then the 1920's came and went by, where everyone was interested in making money, and no one thought much about this. Finally, however, in 1930 the Bar woke up, and by that I mean to say that the Unauthorized Practice Committee of the American Bar Association was formed in that year. And as stated in the American Bar Association reports—I am quoting now, this is just a short clause—"The committee was created as a result of pressure from outside the association." And that pressure was by corporations and other lay organizations upon the practice of law. In short, these corporations and lay agencies caused so much injury to the public that pressure was brought upon the American Bar Association to

form a committee on the unauthorized practice of law. At about the same time unauthorized practice committees of state associations were formed, and gradually the bar began to fight back, to wake up and fight back against these encroachments by corporations and lay agencies.

Now, there is one regrettable feature about all this I hesitate to mention, but which I should in all fairness, and that is that you will rarely find an instance of unauthorized practice which has not been created with the aid and assistance of some lawyer. This has been a problem from the beginning of the fight to prohibit unauthorized practice. And this is also set forth—I am going to read to you again if you will bear with me—by George Brand, the author of Brand's "Unauthorized Practice Decisions," a Detroit Lawyer, who had occasion to refer to this in those rather stirring terms: "Of what force, may I ask, was the code of ethics that prohibited the ethical lawyer from soliciting legal work, from dividing his allegiance, and from not observing the confidential character of the client's disclosure. If so called ethical lawyers professing to operate under the same code could obtain the benefits of solicitation of legal work by corporations, associations and individuals engaged in business, could occupy positions of divided loyalty in handling the solicited business and render themselves incapable of protecting a client's privilege as to communications, could anyone perceive the possibility of preserving the legal profession as a profession if the members of the bar continue to permit business to sell and exploit their services?"

Well, as I say, this has been a troublesome problem for a long time. In any event, in 1947 the Canons of Professional Ethics of the American Bar were amended so to add Canon number 47, which provides that, "No lawyer shall permit his professional services or name to be used in aid of unauthorized practice of law by any person or corporation."

Now, in any event, gentlemen, we have this problem of trying to prohibit unauthorized practice. There are enterprising citizens, lay agencies of one sort or another, who are constantly trying to encroach upon the practice of law. Many of them have the aid of lawyers, which is regrettable. But, in any event, this pressure is constantly upon the legal profession. And this is something I think every lawyer should now understand and face, because the issue is this: Are we to have the bar whittled away chip by chip by people who engage in the unauthorized practice of law? Are we to have the gradual transfer of legal work from lawyers to corporations and lay agencies?

Well, let us examine for a moment what is at stake. Of course, the interest of individual lawyers is at stake. Lawyers can not prosper individually if unauthorized practitioners are to be permitted to solicit legal work and turn it over to hired lawyers to perform it or perform it ourselves. But that is only incidental. What is more important is that a strong Bar is at stake. For a strong bar has even less of a chance to exist and prosper in the face of competition from unauthorized persons who can solicit legal work, as lawyers can not, and once having solicited it, control it and perform it through hired lawyers or otherwise.

Now, finally, and what is most important, is that the public welfare is most at stake in all this. And the reason is, ladies and gentlemen—though you don't hear much about it. At least I haven't heard much about it outside of my own little orbit—a strong bar is positively essential to the public welfare.

Indeed, as was pointed out in this Rhode Island case which I mentioned to you, Judge Condon had this to say about it. He said that "under our system

of law"—I am quoting now—"the most effective guarantee of equal justice to all is a competent and learned bar composed of men of high personal character who govern their professional conduct at all times by the Canons of Ethics. The lack of such a bar, or the co-existence with it of the lay individual or groups operating under deceptive devices and catch names to mislead the public into believing that they are entrusting their causes to those learned in the law and competent to serve them would inevitably result in a deprivation of justice to many in the state."

And then there was a recent case—I hope I am not reading too much to you. I don't believe in reading quotations to appellate courts, but these quotations state so much better than I can the points I would like to get over.—The Supreme Court of Arkansas, cited just last year in the Beach Abstract Case, which is in 326 Southwest 2nd, 903, said, referring to this issue, the importance to the public of a strong bar: "This prohibition by us against others than members of the bar of the State of Arkansas from engaging in the practice of law is not for the protection of the lawyers against lay competition, but is for the protection of the public, the rights bestowed upon citizens of this country by the law and those rights inherent in the citizenship are the gauge of our freedom and our civilized progress. The public interest therefore requires in the securing of professional advice and assistance upon the matters effecting one's legal rights, one must have the assurance of competence and integrity and must enjoy freedom of full disclosure with complete confidence in the undivided allegiance of one's counselor in the definition and assertion of the rights in question." Then the court went on to say: "The bench and bar may not lightly disregard these public obligations, nor in the default of duty may they casually permit the public to be led to rely on the counselling in matters of law, of persons not subject to the standards and discipline of an attorney as imposed by law for the public protection."

Let me analyze it, if I may. First, a strong bar is necessary to protect individual rights. Secondly, it is important if we are to have adequate judicial machinery. Thirdly it is important if we are to have judicial reform and preserve the integrity of the courts. Fourth, it is important if we are going to effectively administer the affairs of the government. For we have in our country a government of laws, and not of men, as John Adams wrote in Article XXX of the Massachusetts Constitution. And this means that a government of laws simply should be administered by competent lawyers, so far as its legal work is concerned, drawn from a strong bar and supported by a strong bar. Under a weak bar, I think we all understand that a government of laws must necessarily degenerate.

And finally, a strong bar, ladies and gentlemen, is necessary, I think, to provide a moral tone in everyday community life. Those of us who are lawyers know that it is judicial decisions, based as they are on the work of lawyers and on the factors of reason, fair play and personal integrity which factors underlie the work of lawyers and judges, which set the basic standards for personal conduct in everyday life. And through these decisions of the bench, based on the work of the bar, we have obtained these standards of reason, fair play and personal integrity as the standards of personal conduct, instead of those of wealth, power, intrigue, passion, favoritism, misrepresentation and violence which we see so clearly throughout the other portions of the world.

Now, let me give you, if I may briefly, an historical illustration showing how a strong bar is essential to public welfare. In 1846 the State of New York

held a Constitutional Convention and issued a new Constitution. And one of its disturbing products was an elective judiciary. This innovation was part of the backwash of the Jacksonian Democracy with its equalitarian philosophy that anyone was entitled to practice law, with or without legal education or qualifications. In any event, in the State of New York there was an enterprising gentleman named William Marcy who was a big cheese in Tammany Hall. He said to himself, "This is great. Now I am going to make progress"; and before very long it became notorious that in New York City the courts were controlled by the politicians. Corruption was rife in New York, and everybody knew it. And you may naturally think, "Well, all right, what did the bar do with it." Well, ladies and gentlemen, the bar did nothing about it for quite a while. Initially there was no reaction from the bar at all. The bar was weak; there was not even a bar association in the entire City of New York. And who was it that took up the cudgels? Interestingly enough, it was the press. And that great newspaper, the New York Times, said in an editorial—an editorial in 1869—and I am quoting now: "In other words, no eye but a professional one can know the marks of judicial corruption, and we repeat that it is part of the implied contract which the lawyer enters into with the country when he takes his diploma not simply to procure for his client the benefit of the existing legal machinery, but that he will see that it is in good order." And this last phrase, that he will see the legal machinery is in good order, I think goes to the integrity of the practice of law as well as to the integrity of the courts.

In any event, needled by this newspaper, the New York Times, some of the leaders of the bar in New York thought they had better get going and do something. And the result was that an initial meeting was held to organize what later became known as the Bar Association of the City of New York on February 1, 1870. This meeting was held in the school building after a call to organization which had been signed by some 200 lawyers. But at this meeting the bar was still divided. There were two groups. There were the zealots who said the bar must organize to protect the public interest. And then there were the second group who said, "Well, I don't know why we should stick our necks out. What's in it for me?" And so the meeting dragged on through the evening. And finally, later in the evening, the whole group was aroused by what has been described as hell fire and brimstone by none other than Samuel J. Tilden, the great leader of the New York Bar. He made a speech, and this is what he said, in part: "The bar," thundered Tilden, "if it is to continue to exist, if it would restore itself to the dignity and honor which it once possessed, must be bold in defense and if need be, bold in aggression. If it will do its duty to its country, if it will do its duty to the profession which it follows and to which it is devoted, the bar can do everything else. It can have a reformed constitution, it can have a reformed judiciary, it can have the administration of justice made pure and honorable, and can restore both the judiciary and the bar until it shall be once more, as it formerly was, an honorable and elevated calling."

Well, this speech brought down the house. The result was the formation of the Association of the Bar of the City of New York, as it now is called, and the smashing of the Tweed Ring. A committee of 75 was formed which exposed the financial shenanigans of the Tweed Ring, and impeachment proceedings were brought in the New York Legislature against some of the ring leaders.

And now, ladies and gentlemen, I am going to close. In doing so, I would like to ask you to think again of some of these vital phrases in what I consider

to be this powerful prose of Samuel J. Tilden. First of all let's be realistic about this. No lawyer who violates the canons of ethics by aiding the unauthorized practice of law is doing his duty to the profession or to the public. And second, to paraphrase Mr. Tilden, if the bar will do its duty to itself, if it would restore itself to the dignity and honor which it once possessed, if it would be once more a truly honorable and elevated calling, it must be bold in defense and if need be bold in aggression to protect the integrity of the practice of law as well as to protect the integrity of the courts. Stated otherwise, again to paraphrase Mr. Tilden, if the public is to be adequately served and protected, the bar must be bold in defense and if need be bold in aggression to prohibit the unauthorized practice of law, only in this way, as Theodore Roosevelt said, can the members of the bar continue to contribute so much to the growth of the national soul, as he put it, which is so badly needed in these critical days of complexity, crisis and change.

PRESIDENT SHERMAN J. BELLWOOD: Thank you very much, Mr. vom Baur, for a stirring address. At this time I will attempt again to introduce our new Commissioner. Will Glenn Coughlan come to the podium please?

GLENN COUGHLAN: I just want to say that I am very appreciative for the support that I received, and I will sincerely and truly endeavor to do my very best to merit that support in my term as Commissioner. Thank you.

PRESIDENT BELLWOOD: Thanks, Glenn. Congratulations to you. I think your work is cut out for you.

At this time I think we will take a ten minute aspirin break.

(At this time a short recess was taken.)

PRESIDENT BELLWOOD: Please take your seats and come to order.

Jim Cunningham, would you come to the podium please and introduce our next speaker?

(At this point Jim Cunningham introduced Carl F. Conway, Osage, Iowa, President of the Iowa State Bar Association, and Mr. Conway followed with his speech, "Legal Opportunities in Outer Space.")

PRESIDENT BELLWOOD: As you know from your program the banquet is tonight, and we need a little sampling of information if we can get it here. Several of you have children with you. We'd like to know how many in the audience here expect to bring their children to the banquet tonight. Would you raise your hands. Thank you.

At this time Justice McFadden has asked for a moment or two and we have given it to him.

JUSTICE McFADDEN: Thank you President Sherrin, Mr. Notary, ladies and gentlemen: I asked for a minute of your time here. I am not going to take long, but I just want to publicly thank all the members of this Bar for the splendid work that they did in a little tussle just a little over a month ago. Without the assistance and the cooperation and the help that I got I would never had had this election, and I want each and every one of you to keep in mind one factor, that the attorneys in this state carry an awful lot bigger wallop than they ever thought they did. Many thanks.

PRESIDENT BELLWOOD: Thank you, Justice Joe.

We are about to adjourn for today. You can consult your program for the activities that are on the rest of the day. We will adjourn until 9:00 a.m.

Now, we sometimes have a little problem with the management here in getting out on time on Saturday after our business session. It would be greatly appreciated if you would make every effort to be here on time in the morning so we can get started on time and finish on time. We will now be adjourned.

Saturday, July 9, 1960

PRESIDENT BELLWOOD: We will be in session. Well, I think we had a fine program this year, and I want you all to know it was arranged by Blaine Anderson. I think he is entitled to a good hand for a darn good program.

The first thing on the program this morning is a report from the Judicial Conference. I don't know who is to give that.

JUDGE MERLIN S. YOUNG: I guess I am.

PRESIDENT BELLWOOD: Very well, Judge Young.

JUDGE YOUNG: Mr. President, lawyers: I am pleased to report we had a very successful Judicial Conference this year. Probably had better attendance than we have had in many years. All of the state trial judges were present with the exception of two who were unable to attend because of causes beyond their own control.

I won't repeat the program we had. We did have as assistant and guest speaker Professor Philip E. Peterson on the rules, which was of great assistance to us on our panel discussion upon particular rules. It might be of some interest to the lawyers that we endeavored to resolve the difficulties arising out of motions for change of venue under Rule 12(e). We found it was almost irreconcilable, so we are making a recommendation to the Rules Committee of the Supreme Court that a clarification be made on this change of venue proposition. But for your information I think the trial judges are generally in accord that a rule for change of venue probably will be accepted, at least, as a motion under Rule 12, without the difficulties of conflict with the present statutory or old statutory law.

Several other rule problems were resolved among the Judges. I won't go into them in detail.

We heard from Warden Clapp of the Penitentiary, particularly upon release procedures and commutation procedures in relation to the sentences by the judge. We had some discussion of uniform jury instructions from Judge Jack McQuade, and will continue to work upon that project, particularly in negligence cases.

The committee upon uniform supplemental local rules reported very little action was accomplished on that matter. There seems to be some confusion between the committee of the State Bar and the committee of the Judges, and it was decided that until the committee of the State Bar did report and make suggestions that the Judges would not take affirmative action. But we do intend to take some affirmative action as to certain uniform rules for all district courts which are supplementary to the Idaho Rules of Civil Procedure.

At the business program we discussed the budget of the District Courts, and arrived at a budget with the assistance of Lou Bideganeta. We appointed three judges to attend the National Conference of Trial Judges in Washington, D. C., as a result of a request from the American Bar in that matter. Those judges will be Judge Towles, Judge Tway and myself.

The same executive committee for the District and Supreme Court Judges' Judicial Conference was appointed. The coordinator of the court, Henry McQuade, will be chairman, and Gilbert Norris and myself will be other members of the Executive Committee. Thank you.

PRESIDENT BELLWOOD: Thank you, Judge Young.

Report of the Prosecuting Attorneys' section.

MR. BILL RODEN: Mr. President, members of the Bar: The Prosecuting Attorneys' section of the Bar Association met yesterday and this morning, and we had a very successful meeting, although this morning I think was a little bit early, —8:00 o'clock. In any event we had good meetings yesterday. The following action was taken by the Prosecuting Attorneys. On the Criminal Code Revision, a committee was approved—a standing committee of the Idaho Prosecuting Attorneys' Association to work in cooperation with the State Bar Commission on revision of the Criminal Code. That committee is composed of Hugh McCuire, Dwaine Welsh, Payette, Howard Adkins, James Schoenhut of Valley, Eugene Bush, Bonneville and Owen Knowlton, Nez Perce County.

In addition, the Prosecuting Attorneys' section recommended that the 1961 session of the Legislature be urged to appropriate funds to the Code Commission for continued study of this revision such as might be necessary.

The following committee was formed to study the feasibility of the Legislature changing the term of Prosecuting Attorney to four year terms, and also study uniform compensation schedules for attorneys employed by the State and County: Hartley Kester, Bill Brauner, Francis Rassmussen and Owen Knowlton.

Because of some changes in our association which will be made next January, and in addition to that the urgent necessity of considering the criminal code revision, the Prosecuting Attorneys Association decided to hold an interim meeting, which will be held on November 11 of this year. That's a day prior, I believe, to the Law Institute which will be held at Moscow on the 12th and 13th of November. The Prosecuting Attorneys will hold a one day meeting on November 11 to consider any code revision which is being proposed at that time.

Also new officers will be elected by the Prosecuting Attorneys' Association. In addition we hope to arrange for a complete program at that meeting, and bring in out-of-state speakers. And Mr. Berman from the University of Idaho Law School is going to cooperate with us and help and assist us in that.

We have at the present time formed several sub-committees dealing with specific laws which we are concerned with that we feel should be changed. And three of these are at the present time asking for statutory revision of the aggravated assault statutes. This is being worked upon by Bill Nixon and Robert Fanning. Negligent homicide statute will be looked into by Eugene Bush. The check law changes will be handled by Dwaine Welsh of Payette County.

We appreciate the arrangements which have been made by the Bar Commission for our meetings, and we have been very happy with our meetings and happy to be able to make this report to you. Thank you very much.

PRESIDENT BELLWOOD: Thanks, Bill Roden, for your report. Many of the standing committee reports, as you have noticed, were published in the June issue of the Advocate. I am wondering if the Secretary has anything to add to his report tomorrow.

MR. TOM MILLER: No, not to my report.

PRESIDENT BELLWOOD: I believe the Supreme Court Committee on Rules of Civil Procedure has a report to make at this time, which was not included in the Advocate, is that correct? Are you going to make that?

COMMISSIONER MARCUS J. WARE: Tom just handed me the report. I believe I can read it. The body of the report of the committee on changes of Idaho Rules of Civil Procedure reads as follows: "The committee on changes of Idaho Rules of Civil Procedure, appointed by the Idaho Supreme Court, consisted of the following members: Oscar W. Worthwhine, Chairman, Honorable M. Oliver Koelsch, Honorable Jack McQuade, L. H. Anderson, Marcus Ware. During the past year the committee received a great loss in the death of Oscar Worthwhine. Subsequently, the Supreme Court appointed Sam Kaufman to fill this vacancy. During the past year the committee has had a number of matters under consideration. The committee recommended to the Supreme Court that Rule 6(a) of the Idaho Rules of Civil Procedure be amended to provide that where the last day of a period of time fell on a Saturday, the Saturday should not be included. The change was ordered by the Supreme Court.

The Supreme Court, upon recommendation of the committee, amended Rule 12(a) to provide that time for appearance in Justice's and Probate Courts, where service is made in the county where the action is pending, shall be five days. The same change was made in rule 12(f).

The committee approved, and the Supreme Court ordered, that Rule 77(c) be amended so that the Senior District Judge of a District shall prescribe the date and hours when the office of the Clerk of the District Court shall be open.

The committee has under consideration, upon request from the Supreme Court and the Idaho State Bar, the question of a revision of the various fees charged in litigation. The committee concluded that this matter was more properly one for legislative action, rather than handling under the rule making power of the Court.

The committee presently has under consideration changing the form of summons so as to more closely correspond to the form appointed in the federal courts. The committee, likewise, has under advisement at the present time a proposed amendment to Rule 62(a) to provide for an automatic stay of 10 days after judgment before execution can issue, unless the court otherwise directs. Respectfully submitted, Willis E. Sullivan, Chairman.

PRESIDENT BELLWOOD: Thank you, Marc, for giving the report of that committee. Are there any other committee reports which should be given at this time which have not been published? Tom has a report which he has received from the Public Relations Committee, I believe.

MR. TOM MILLER: This is the report for the year 1959-60. "The Public Relations Committee is composed of Mr. Eugene L. Miller, Coeur d'Alene, Idaho, for the Northern District, Mr. Arthur Staton, Jr., Pocatello, Idaho, of the Southeastern District, and Herman E. Bedke, as Chairman, Burley, Idaho, for the Southern District.

At the time the Chairman of the Committee was the Junior Member, the three year program was inaugurated, consisting of printing and distributing pamphlets, and publications in local newspapers and farm journals to make the general

citizens aware of the attorney and the services which can be performed by him. Since Public Relations is a nebulous subject, it is difficult to appraise the effectiveness of the program inaugurated. As a continuance of the program commenced, this committee, with the cooperation of Paul Ennis, former Secretary, and Tom Miller, Secretary of the Bar Association, publication was completed on the pamphlets 'Sign Here . . . and do you?', 'Facts You Should Know About Everyday Business Transactions,' 'Meet your Lawyer,' 'The law . . . Lawyers,' 'Buying a Home,' and these pamphlets were distributed to the committee members for further distribution to the respective Bar Associations in the Districts. The exact method of getting these pamphlets to the places for distribution to the public is left optional with each District concerned, as it was felt that they were more qualified to determine how actual distribution to the public should be made.

Articles from the State of Michigan Bar Association, 'If You're Like Me,' were edited and publication was continued through the Idaho Press Association to all the newspapers in the State.

Cooperation with the Oregon State Bar and the firm of Goodrich and Snyder for prepared releases of publications in the Idaho Farmer were continued.

It is recommended to the new Committee that the Public Relations program be re-appraised and that continuance of the above measures be maintained and that other avenues of acquainting the public with the responsibility and services of the attorneys be made. Respectfully submitted, Herman E. Bedke, Committee Chairman." Thank you, Mr. President.

PRESIDENT BELLWOOD: Thank you, Mr. Secretary, for giving that report. Are there any other outstanding committee reports that should be given at this time? At this time we will ask Joe Anderson to come to the podium and give the report of the Resolutions Committee.

I might say, before you take over here, Joe, that there probably will be considerable voting by bar associations. If you are not grouped with your bar association, you should probably be seated with them at this time for voting purposes. The Shoshone County Bar Association has 16, Clearwater Bar Association, 66; Third District Bar Association, 179; Fourth and Eleventh District Bar Association, 81; Fifth District Bar Association, 74; Sixth District Bar Association, 20; Seventh District Bar Association, 49; Eighth District Bar Association, 47; Ninth District Bar Association, 38; Twelfth District Bar Association, 18. According to the Secretary's report, that totals 588.

MR. JOE ANDERSON: Mr. President, Commissioners, members of the Bar: The committee was composed of members, Tom Feeney, Joe Imhoff, Chuck Creason, Charles Johnson, Walker Lyon, Dean Miller, Pete Wilson, John Bloem and Jay Bates. I wish to thank those members for their participation in the Resolutions Committee. The committee met and considered resolutions submitted according to rule prior to June 1st, and considered additional resolutions. And those reported out carried by two-thirds.

Resolution 1: RESOLVED, That Section III of the uniform by-laws for District Bar Associations in the State of Idaho, as set forth in Rule 187 of the Board of Commissioners of the Idaho State Bar, be amended to read as follows, to wit: "SECTION III—Membership. Any person who is a member in good standing of the Bar of the State of Idaho and a resident within the _____ District of said State, shall ipso facto be a member of the Association, and shall pay a membership fee of \$_____ to the Treasurer of this Association on or

before the _____ day of each year. Three dollars of each such membership fee shall be remitted forthwith by the Treasurer to the Idaho State Bar Foundation, Inc., for such member's annual subscription to *The Advocate*, the monthly news publication for Idaho lawyers."

RESOLVED, That the following Rule of the Board of Commissioners of the Idaho State Bar be adopted, to wit:

"Rule 189. Every member of the Idaho State Bar resident within a local bar association who practices law or holds himself out as qualified to practice law in the State of Idaho shall pay an annual membership fee established for the local bar association wherein such member is a resident."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: You have heard the motion. Do I hear a second.

MR. TED EBERLE: Second.

PRESIDENT BELLWOOD: It's been seconded by Ted Eberle. Any discussion? Are you ready for the question? We will vote on that by bar associations. Shoshone County Bar Association. Is the Shoshone County Bar represented? Clearwater Bar Association. Is Clearwater Bar represented? We are asking for your vote on the resolution on the motion to adopt the resolution.

(Then followed the vote by District Bar Associations.)

The motion is unanimously carried. The resolution is adopted.

MR. JOE ANDERSON: Resolution number 2. "Whereas, The Committee of the Idaho State Bar on the Economics of the Practice of Law has reviewed the advisory fee schedule of the integrated Bar of the State of Idaho and has observed the operation of said fee schedule during the past year and has received comments and recommendations of lawyers throughout the State pertaining to said schedule and has determined that said schedule should be amended in certain respects;

NOW, THEREFORE, BE IT RESOLVED That the advisory fee schedule of the integrated Bar of the State of Idaho be amended as follows:

Add under FORECLOSURES.

Foreclosure of the Trust Deeds:

Foreclosure by action:

First \$10,000 or part	10 %	
Second \$10,000 or part	7 %	\$250.00
Third \$10,000 or part	5 %	Minimum
All above	3 %	

Summary foreclosure:

First \$10,000 or part	5 %	
Second \$10,000 or part	3½%	\$125.00
Third \$10,000 or part	2½%	Minimum
All above	1½%	

UNDER DIVORCE:

Delete:

With custody provisions	-----	Add \$50.00
With property provisions	-----	Add \$50.00
With custody and property provisions	-----	Add \$75.00

Add:

With custody and/or property provisions ----- Add \$50.00

UNDER PROBATE OF ESTATE

To be based on all the separate property, all the community property up to \$10,000, and one-half the remaining community property

First \$1,000	-----	7 %
Next \$4,000	-----	5 %
Next \$5,000	-----	4 %
Over \$10,000	-----	3 %

Short form procedures:

Determination after two years and Community Property Establishment in surviving husband and determination of inheritance tax proceedings ----- Time charge \$150.00 minimum

CONTINGENT FEES—Changed as follows:

Damage cases:

Settled without action being filed	-----	25%
Settled after action, but before trial	-----	30%
Settled during or after trial	-----	33 1/3%
Upon appeal	-----	40%

OFFICE BUSINESS:

Deed—Time charge	-----	\$10.00 Minimum
Bill of Sale	-----	\$10.00 Minimum

CORPORATIONS:

Organization of ----- Time charge, with \$350.00 minimum

Mr. Chairnau, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Do I hear a second?

VOICE: Second.

PRESIDENT BELLWOOD: It's been seconded by Harold Ranquist. I would like to interject right here that when you address the chair for the purpose of the record here that you state your name, please.

MR. RALPH BRESHEARS: Mr. President, Mr. Breshears, Ada County. What does that do with respect to the statutory minimum?

MR. JOE ANDERSON: This is the same as we adopted last year, with the addition of the editor's note that was in *The Advocate*. It does not change it. It is an interpretation of that statute. It does not change the statutory fee.

MR. DALE MORGAN: Dale Morgan of the Third District Bar. Another point of information in connection with the fees on foreclosure of trust deeds, is that intended to mean foreclosure by statutory means or by court procedure?

MR. JOE ANDERSON: It is my understanding that the foreclosure of the first part was by court procedure; summary foreclosure was by the statutory method.

MR. A. L. MERRILL: Mr. Chairman, A. L. Merrill from Pocatello. Did the committee take into consideration the ability of the client to pay? There are many

instances that come in my office where the person, particularly a widow, is unable to pay the fees of the schedule, but still is desperately in need the work be given her. And why could not a lawyer give his time and attention if he wants to do so to help that individual? Why should he be required to adhere to this minimum fee schedule with all clients?

MR. JOE ANDERSON: This was not discussed at this resolution. This was an amendment to one adopted last year. I think under the one adopted last year, it was permissible to make such arrangements. That, however, is a recollection on my part. Maybe someone else could better explain that. But this is an amendment to the one adopted last year, and therefore this particular question was not considered.

PRESIDENT BELLWOOD: As I recall, the original resolution and schedule makes provision in the opening or closing paragraph for matters which you have mentioned, Mr. Merrill. If I am incorrect, somebody can certainly correct me. It is covered in the Canons also. Any other discussion? Are you ready for the question?

MR. BOB BAKES: Bob Bakes from Boise. I was wondering if there is any particular reason why the settlement during or after trial on personal injury suits should be 33½ per cent instead of 35 per cent?

MR. JOE ANDERSON: The feeling of the committee was that the 33 was a pretty standard figure that was more or less utilized rather than the 35. In any event, that was I think the only change in that particular section was that from 35 to 33½. The recommendations of the committee on the advisory fee schedule, Mr. Coughlan, chairman, we adopted that upon their recommendation.

PRESIDENT BELLWOOD: Any further discussion? Are you ready for the question? You have heard the motion; it's been seconded and the question called for. We will again vote by local bar associations.

(Vote by District Bar Associations.)

PRESIDENT BELLWOOD: The motion is unanimously carried, and the resolution adopted.

MR. JOE ANDERSON: Resolution number 3.

"WHEREAS, various judicial districts of the State of Idaho have continually overcrowded dockets, and

WHEREAS the citizens of the State of Idaho are entitled to have litigation and court matters heard promptly;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Idaho State Bar urge and support legislation at the next session of the Idaho State legislature to create additional judgeships in those districts found by the Court Coordinator to have consistently overcrowded dockets."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: The chair rules that this doesn't require a vote by local bar associations. Is there any discussion on the resolution and motion.

VOICE: Question.

PRESIDENT BELLWOOD. The question has been called for. All of those in favor signify by saying aye; those opposed no. The chair is a little bit in doubt. We will have a vote by show of hands, and will the Secretary count this?

Again, all those in favor signify by raising their hand. The chair is no longer in doubt. Motion is carried and resolution adopted.

MR. JOE ANDERSON: Resolution number 4.

"WHEREAS, the Idaho State Bar recognizes the general high caliber of the Judges and Justices of the District Courts and Supreme Court of the State of Idaho, and

WHEREAS, the salaries paid to the judges and justices of the District Courts and the Supreme Court of the State of Idaho are disproportionately low, compared to the ability and training required, and compared to salaries paid by other states to judicial offices;

NOW, THEREFORE, BE IT RESOLVED that the Idaho State Bar urge and support legislation at the next session of the Idaho State Legislature to increase salaries to the Judges and Justices of the District Courts and Supreme Court of the State of Idaho to a level sufficient to assure the continued attraction of highly qualified persons to the judicial offices."

Mr. Chairman, I move the adoption of this resolution.

MR. CHARLES JOHNSON: Mr. Chairman, I second the motion.

PRESIDENT BELLWOOD: You have heard the motion. It's been seconded by Charles Johnson. Any discussion?

MR. HAROLD RANQUIST: Harold Ranquist, Third District Bar. I notice we don't set any definite figure as to—there to a recommended fee—I mean a recommended salary for the judges. And I wonder why that hasn't been done. It appears that the bar should have some—or should be the ones they could turn to ask how much they figure a judge should be worth. Let me put it this way, then; make it in such a way we could tell them how much it would take to attract the proper kind of men to the judgeship.

MR. JOE ANDERSON: I don't know, Harold, whether it would be the function of the Resolution Committee to try to settle the salary or urge that it be considered properly and set by others, but we felt—the Resolutions Committee felt this was the way to approach it, and would be an adequate statement of the position of the bar without putting a specified amount.

MR. HAROLD RANQUIST: Would plans be made then at the time the legislature meets for putting the information before them as to what they felt would be adequate?

MR. JOE ANDERSON: I think the Bar will certainly make its position known. These resolutions—there is to be other action on other committees, and I think at that time they could make some suggestion, but it wasn't felt proper we do it at this time.

PRESIDENT BELLWOOD: Any further discussion?

VOICE: Question.

PRESIDENT BELLWOOD: Question has been called for. There is some doubt in the chair's mind as to whether or not that should be voted upon by Bar Associations under our rules which require such a vote in matters relating to or affecting statutes. I assume that rule can be waived. The question has been called for. We will vote by local bars.

(Then followed the vote by District Bar Associations.)

PRESIDENT BELLWOOD: The motion is unanimously carried and the resolution is adopted.

MR. JOE ANDERSON: Resolution number 5.

"WHEREAS, the Committee on the Reform of Inferior Courts of the Idaho State Bar has recommended in its Second Amended Report made to the President and membership of the Idaho State Bar that certain court reforms be made to the court system of the State of Idaho, and

WHEREAS, such court reforms are impossible to accomplish unless Article V, Section 2 of the Constitution of the State of Idaho is amended and Article V, Sections 14, 21 and 22 of said constitution are repealed,

NOW, THEREFORE, BE IT RESOLVED by the integrated Bar of the State of Idaho duly assembled in convention at Sun Valley, Idaho, July 7 through 9, 1960, that the next legislature of the State of Idaho be urged to pass appropriate resolutions so that the matter of the amendment and repeal of the sections of the Idaho State Constitution above set forth may be submitted to the voters of the state of Idaho in the general election to be held in November, 1962, and be it

RESOLVED, that the Legislative Committee of the integrated Bar of the State of Idaho be and is hereby instructed to submit to the next legislature of the State of Idaho a proposed draft of such resolutions and that said committee be and is hereby authorized and instructed to exert its best efforts to implement the enactment of such resolutions."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: You have heard the motion.

VOICE: Second.

PRESIDENT BELLWOOD: It's been seconded. Any discussion on this motion and resolution?

VOICE: Question.

PRESIDENT BELLWOOD: The question has been called for. We will vote on this one by local bars.

(Then followed the vote by District Bar Associations.)

PRESIDENT BELLWOOD: Motion is unanimously carried. The resolution is adopted.

MR. JOE ANDERSON: Resolution number 6.

"WHEREAS, the Committee on the Reform of Inferior Courts of the Idaho State Bar has recommended in its Second Amended Report made to the President and membership of the Idaho State Bar that all of the jurisdiction of the Probate Courts of the State of Idaho be transferred to the District Courts of said State, and that Probate Courts be abolished, and

WHEREAS, said committee has further recommended that the jurisdiction of municipal courts in the State of Idaho be transferred to Justice of the Peace courts and that such municipal courts be abolished, and that the name 'Justice of the Peace Court' be changed to 'County Court' and

WHEREAS, the accumulation of statistical information and the drafting of appropriate legislation to accomplish the objectives recommended by said committee is a project of great magnitude and may be accomplished only by the employment of full-time personnel over a period of approximately two (2) years, and

WHEREAS, it appears that the proposals of said committee, if accomplished, would save the taxpayers of the State of Idaho considerable sums of money thereby justifying the employment of such full-time personnel.

NOW, THEREFORE, BE IT RESOLVED by the integrated Bar of the State of Idaho duly assembled in convention at Sun Valley, Idaho, July 7 through 9, 1960, that the next session of the legislature of the State of Idaho be urged to establish a procedure and to provide funds for the employment of qualified personnel by the Board of Commissioners of the Idaho State Bar to draft legislation which would accomplish the purposes set forth in the recitals hereto (which are hereby incorporated herein by reference) and to accumulate the statistical information which is needed to show the necessity and desirability of the proposed reforms recommended by the committee in its report of recommendations, and be it further

RESOLVED, That the Legislative Committee of the integrated Bar of the State of Idaho be and is hereby authorized and directed to draft legislation necessary to obtain an appropriation of the funds necessary to serve the objectives of this resolution and to employ the people necessary to prepare the proposed legislation and accumulate the statistics above mentioned and submit the same to the next session of the legislature of the State of Idaho, and said Legislative Committee is hereby authorized and directed to exert its best efforts to implement the enactment of such legislation."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Do I hear a second?

MR. EUGENE BUSH: Second.

PRESIDENT BELLWOOD: Seconded by Gene Bush. Any discussion on this resolution?

MR. A. L. MERRILL: Does this resolution contemplate the abolishment of the work in the Probate Court such as probating estates?

MR. JOE ANDERSON: The resolution asks for a study of them. That's the purpose of the resolution. This resolution calls for a study of it, recommendations, and preparation of material on it.

MR. W. E. SMITH: May I answer? W. E. Smith, Third District Bar, Chairman of the Inferior Court Committee. The idea of the recommendations of the Committee on the Inferior Courts was that Probate Jurisdiction be transferred to the District Court. All Probate jurisdiction except the civil jurisdiction would go to the Justice of the Peace Courts which would be known then as County Courts. The idea was that most of the work in probating estates was clerical in nature. With the exception of contested matters that would be handled by someone like the Clerk of the District Court through his office. Such a person exists in each county in the State. Contested matters would be heard by the District Judge. As it is now, those matters are heard initially by the Probate Judge and appealed irrespective of the outcome and heard de novo. The initial pro-

ceeding in Probate Court is what you might call a poorly conducted pre-trial procedure. Anyway, we feel it all ought to be transferred to District Court.

VOICE: Does the committee have any idea how much money is required?

MR. W. E. SMITH: That's the reason for some of this research.

VOICE: Do you have any idea how much money it would cost, the actual legislation?

MR. W. E. SMITH: It appears to us it would cost less, but we couldn't say how much less.

VOICE: I want to know how much money to ask the legislature for in the appropriation.

MR. W. E. SMITH: Just to pick a figure out of the air, I would say somewhere around \$50,000. It would take at least one, perhaps two, full-time lawyers, or one lawyer for two years anyway, plus secretarial and research staff to do this job.

VOICE: Mr. Chairman—

PRESIDENT BELLWOOD: Give your name, please.

WILLIAM GIGRAY: William Gigray, Seventh District. Our Bar Association, in consideration of that proposed resolution and extended by the resolutions committee, we do not quite understand the workings that were proposed there, nor are we in accord with how the proposal would work as to certain counties in our own district. And in view of the circumstances we have been instructed to vote against the adoption of that particular resolution. Now, with the added circumstance of the appropriation here being requested of the legislature to investigate this matter, if the form and procedure of this committee is not binding, we would be able to vote favorably for such a thing. However, if the procedure is to be encompassed in the resolution as to how these court changes are to be made, we will have to vote no. And I would like a clarification from the chair as to whether the two are connected and have to be considered as a whole.

MR. JOE ANDERSON: It was the feeling of the resolutions committee this would only provide for a study. This would not be binding upon the members of the bar to adopt the recommendations, but this would provide for the study of them, give the information. Then later make a determination whether to adopt the recommendations or not. Is that correct, Judge Smith, your understanding?

MR. W. E. SMITH: The way the resolution reads, it approves the philosophy I just described about transferring. Now under what probate procedure would be followed in District Courts, that's one of the things to be determined by the study. You see, those procedures, probate procedures, would have to be redrafted somewhat. I might say that the procedure we have in mind, as far as how the cases would be conducted, how an estate would be probated in court, would be somewhat similar to the way it is done now in other states that use Superior Courts or District Courts for this procedure, such as Washington, part of Oregon and California. That's what we are trying to get at.

PRESIDENT BELLWOOD: I will ask the chairman of the Resolutions Committee to re-read the resolve part without the whereas. Perhaps that will help clarify it.

VOICE: The point is the procedure that was proposed was not acceptable to the Seventh District. We agree that the court system should be changed.

but we are not in accord with the procedure that has been outlined. We would be in favor of the study of this matter if the procedure which was outlined is not binding upon the study. In other words, we would have a voice at some time as to what was to be adopted.

MR. JOE ANDERSON: The chair addresses the question back to the questioner. What's wrong in your idea, the opinion of your Bar Association. What is the quarrel with the suggested procedure that the probate be handled in District Courts?

VOICE: Well, in our district, we have several small counties. The Clerk of the District Court, is he going to be given the authority to go the full way in this matter, or going to serve as a judge? I mean, that is about what we would understand here. In other words, you are proposing to substitute the Clerk of the Court for the Probate Judge in practically all of the counties, with merely the District Judge serving as a supervisory officer, is that correct?

MR. W. E. SMITH: Something like that. But now I think I understand your question. As to what procedure would be used by the Clerk of the District Court, there is nothing in that resolution that's binding, or whether he would be the one to swear people to the letters or what he would do, or even whether there would be letters. Maybe there would be some other kind of certificate instead of letters of administration. That's what the study is for, to determine what a good probate procedure would be for a District Court.

MR. DALE MORGAN: Mr. Chairman, Dale Morgan. As a point of information before they get too far into this study, I believe that the cities, particularly the larger cities, should be consulted in this matter before we get too far into this problem. The larger cities should be consulted with respect to the abolishment of municipal courts. I am a City Magistrate, and while I might appear to have some interest in it, I know how the City of Boise feels. They would resist very strenuously a move to abolish the municipal court in the way in which it is proposed by the group who sponsor this resolution. Now you must remember that the City of Boise, for example, has a police budget of about a quarter of a million dollars, and they do most of the police work for the whole county. I think you will find that some of the larger cities will have the same problem, and I think it is incumbent upon us to consult with the cities with respect to any change that affects their courts, not just as attorneys to conduct this without consulting the people it is going to affect. And the cities, I believe you will find in the legislature, will have considerable to say about this problem.

PRESIDENT BELLWOOD: Would you like a re-reading of the resolve part of that resolution?

MR. JOE ANDERSON: "NOW THEREFORE, BE IT RESOLVED by the Integrated Bar of the State of Idaho duly assembled in convention at Sun Valley, Idaho, July 7 through 9, 1960, that the next session of the legislature of the State of Idaho be urged to establish a procedure and to provide funds for the employment of qualified personnel by the Board of Commissioners of the Idaho State Bar to draft legislation which would accomplish the purposes set forth in the recitals hereto (which are hereby incorporated herein by reference) and to accumulate the statistical information which is needed to show the necessity and desirability of the proposed reforms recommended by the committee in its report of recommendations, and be it further

RESOLVED, That the Legislative Committee of the integrated Bar of the State of Idaho be and is hereby authorized and directed to draft the legislation necessary to obtain an appropriation of the funds necessary to serve the objectives of this resolution and to employ the people necessary to prepare the proposed legislation and accumulate the statistics above mentioned and submit the same to the next session of the legislature of the State of Idaho, and said Legislative Committee is hereby authorized and directed to exert its best efforts to implement the enactment of such legislation."

VOICE: I think our group would be against that. We wouldn't be against the study, but as against this, we have bound ourselves here to abolish the municipal court and the probate court, haven't we? As I understood the comments before, this was a study only, and the committee or the commissioners, whoever were appointed, would not be bound. This binds our hands as to what they are to do.

MR. ORVAL HANSEN: Mr. Chairman, Orval Hansen. I am wondering if this suggestion might not be in order. As I followed the reading of the resolution, I believe it contemplated requesting the legislature for funds and for the authorization to create this committee for the purpose of making the study. If that is what is contemplated, I am wondering if we couldn't handle the—take care of the objections by making a provision in the resolution for this study and these recommendations to come back before the Idaho State Bar for further recommendations so that we could have an opportunity to look at it prior to the time that it is submitted to the legislature.

MR. FRANK E. CHALFANT, JR.: Mr. President, Frank Chalfant. I have worked on this inferior courts committee for two or three years, and this recommendation, of course, follows the one that was adopted last year. This doesn't really change the recommendation, I don't think, that was made on this point. The recommended reorganization doesn't really change the reports that have been previously adopted. If there is any question about it, I think that if it is possible we could amend it so as to read the recommendations we have proposed be merely recommendations to whatever legislative or whatever committee or counsel is employed to draft the actual legislation, that these be the general recommendations which they are to follow. Naturally when you go to working out details in court reorganization they are going to have to be eventually submitted to the people. The final details are going to have to be completely worked out. But this committee has, of course, studied this matter thoroughly. There has never been any substantial disagreement on this point. I think that it is right in line—one thing that's not been mentioned—right in line with the recommendations that the juvenile jurisdiction be transferred to the District Courts along with the employment of additional District Judges to handle that business. Because of the importance of that business we are in a position where we must get this done. The mental health people in this state are taking dead aim on the judicial business handled by our judicial administration in juvenile transactions and juvenile problems. Unless we preserve it and get the best kind of judicial administration for that kind of problem and for the probate problem these things are—and we know and we feel that there is going to be legislation in this next legislature to take over this jurisdiction and handle it in a way that it will not meet our judicial standards. So I think if there is any question—certainly the details and the final analysis are going to have to be worked out and finally approved, but the general outline is something that has been adopted in

many states, and this association has adopted it and approved the general recommendations in previous reports.

MR. W. E. SMITH: Mr. President, I think the problem will be solved here when another resolution we have offered—the inferior courts committee has offered—comes up. This resolution we are talking about could say, for now anyway, we are bound toward the philosophy of transferring all probate jurisdiction to District Courts. That doesn't mean we can't change our minds next year. The idea of going through this procedure is so that the legislation will be granted by 1963 if we get the Constitutional amendments passed we talked about earlier. And we will have two meetings of this association before the legislature meets in 1963, have the one next year and the one in 1962.

One of our other resolutions coming up later recommends that the inferior courts committee be dissolved and a new committee called the reform of courts committee be formed. That new committee, if that resolution passes, could study the results determined from this appropriation if we can get it from the legislature and make further recommendations in accordance with it. The inferior courts committee studied this matter for about three years now, and we are confident that any reasonable men in the legal profession who sit down and address the problem will come up with the same solution. And we don't see why we should waste another two year's time.

PRESIDENT BELLWOOD: Any further discussion?

VOICE: Question.

PRESIDENT BELLWOOD: The question has been called for. We will vote by local bar associations. Shoshone County Bar. Clearwater Bar Association.

VOICE: 66 votes yes.

PRESIDENT BELLWOOD: Third District Bar Association.

VOICE: 179 votes in favor.

PRESIDENT BELLWOOD: Fourth and Eleventh District Bar Association.

VOICE: Fourth and Eleventh votes 81 no.

PRESIDENT BELLWOOD: Fifth District Bar Association.

VOICE: Fifth District votes 74 votes no.

PRESIDENT BELLWOOD: Sixth District Bar Association.

VOICE: Sixth District Bar Association votes 20 votes yes.

PRESIDENT BELLWOOD: Seventh District Bar Association.

VOICE: 49 votes no.

PRESIDENT BELLWOOD: Eighth District Bar Association.

VOICE: 47 votes no.

PRESIDENT BELLWOOD: Ninth District Bar Association.

VOICE: 38 votes no.

PRESIDENT BELLWOOD: Twelfth District Bar Association.

VOICE: 14 votes no.

PRESIDENT BELLWOOD: The vote appears to be 303 no and 265 yes, and the motion and resolution is lost.

MR. SCOTT REED: Scott Reed, Mr. Chairman. I move to—we are placed at the present moment in this situation. I think everyone has agreed there should be some sort of reorganization of the inferior court system, and the method proposed of submitting to the legislature a proposal for appropriation of money is sound. I therefore move to reconsider the motion with the intent of amending it to provide in substance for a proposal that the consideration be given by the legislature to inferior court reorganization money to be appropriated for a complete study with appropriate recommendations as to the precise manner it be accomplished. I don't know if my motion is appropriate, but my motion is to reconsider the vote.

PRESIDENT BELLWOOD: Do I hear a second.

MR. CHARLES JOHNSON: Mr. President, if such motion is in order, I second the motion.

PRESIDENT BELLWOOD: You have heard the motion. Is there any debate on that motion.

VOICE: I wonder if it could be accomplished by simply offering a substitute resolution without going through the formality of reconsidering what we have done.

PRESIDENT BELLWOOD: I think it could.

MR. RALPH BRESHEARS: Then let the proponent of this motion offer a substitute resolution in the form that he suggested.

PRESIDENT BELLWOOD: As I understand, the same vote would be required in either event, two thirds.

VOICE: If that's appropriate, Mr. Chairman, I would be prepared to withdraw my motion to reconsider and make such a motion, if the chairman considers it appropriate form to consider a motion at this time from the floor.

PRESIDENT BELLWOOD: Yes, I think while we are on the subject, the chair will consider it. I suppose the second agrees to the withdrawal.

MR. CHARLES JOHNSON: Mr. President, we will withdraw our second.

VOICE: It is therefore proposed the following motion:

WHEREAS, the reorganization of the inferior courts is an urgent matter,

NOW, THEREFORE, BE IT RESOLVED that the Idaho Bar Association recommends to the next legislature that an appropriation be made sufficient to acquire full-time help to consider the problem, to acquire statistical information to complete such an inferior court re-organization, and that the bar association recommend to the legislature that this study be made concurrently with appropriate committees of the Idaho Bar Association. And further, that the Bar Commissioners be permitted by the legislature to assist in the selection of the personnel to conduct this study.

PRESIDENT BELLWOOD: You have heard this resolution. Is there a second?

MR. CHARLES JOHNSON: We second the motion.

PRESIDENT BELLWOOD: Is there a discussion or debate upon this motion?

VOICE: Question.

PRESIDENT BELLWOOD: Question has been called for. As you know this requires two-thirds vote. We will vote by district bar associations.

(Then followed the vote by District Bar Associations.)

PRESIDENT BELLWOOD: The motion and resolution has been unanimously carried and adopted.

MR. JOE ANDERSON: Resolution number 7.

"WHEREAS, The Committee on the Reform of Inferior Courts of the Idaho State Bar has recommended in its Second Amended Report made to the President and membership of the Idaho State Bar that the District Bar Associations study and report their recommendations upon a draft act made from the Standard Family Court Act prepared by a committee of the National Council of Juvenile Court Judges, the National Probation and Parole Association, and the U.S. Children's Bureau, with the idea that some such legislation might be recommended to the legislature in the year 1963.

NOW, THEREFORE, BE IT RESOLVED by the integrated Bar of the State of Idaho duly assembled in convention in Sun Valley, Idaho, July 7 through 9, 1960, that the several District Bar Associations of the integrated Bar of the State of Idaho be and the same are hereby urged to study the draft act from the Standard Family Court Act mentioned in the recitals hereto, and report to the President of the integrated Bar of the State of Idaho on or before June 1, 1961, their respective recommendations concerning whether or not said Act, or something similar thereto, should be enacted into law in this State, and be it further

RESOLVED, That the said President make a summary report of such recommendations to the next convention of the integrated Bar of the State of Idaho."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Is there a second?

MR. JOE IMHOFF: Second.

PRESIDENT BELLWOOD: It's been seconded by Joe Imhoff. Any discussion of this motion?

VOICE: Question.

PRESIDENT BELLWOOD: The question has been called for. All those in favor signify by saying aye. Those opposed no.

It was carried.

MR. JOE ANDERSON: Resolution number 8.

"WHEREAS, The Committee on the Reform of Inferior Courts of the Idaho State Bar has recommended in its Second Amended Report made to the President and membership of the Idaho State Bar that the District Bar Associations of the integrated Bar of the State of Idaho forthwith study the proposed Idaho Rules in Traffic Cases, included with said report, and that said District Bar Associations report their recommendations, upon whether or not they should be adopted, to the Commissioners of the Idaho State Bar for referral to the Idaho State Supreme Court for such action as said court may feel appropriate.

NOW, THEREFORE, BE IT RESOLVED by the integrated Bar of the State of Idaho duly assembled in convention at Sun Valley, Idaho, July 7 through 9, 1960, that each of the District Bar Associations of the integrated Bar of the State of Idaho be, and the same are hereby, urged to forthwith study the proposed Idaho Rules in Traffic Cases included in the Second Amended Report of the Inferior

Courts Committee of the Idaho State Bar, and as soon as possible report its recommendations as to whether or not such rules should be adopted, to the Commissioners of the Idaho State Bar, and be it further

RESOLVED, That upon receipt of all recommendations from the District Bar Associations, that the Commissioners of the Idaho State Bar shall forthwith transmit all such recommendations to the Supreme Court of the State of Idaho for such action as said court may determine."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Is there a second?

VOICE: Second.

PRESIDENT BELLWOOD: It's been seconded several times. Any discussion or debate on the motion and resolution?

All those in favor say so by saying aye. Those opposed no.

Motion carried

MR. JOE ANDERSON: Resolution number 9.

"WHEREAS, The Reform of Inferior Courts Committee of the Idaho State Bar in its Second Amended Report submitted to the President and membership of the Idaho State Bar recommended that the said Committee on Reform of Inferior Courts be discharged and that a new committee of the Idaho State Bar be formed to study and make recommendations on reforms which may be needed for all courts and tribunals in the State of Idaho,

NOW, THEREFORE, BE IT RESOLVED by the integrated Bar of the State of Idaho duly assembled in convention at Sun Valley, Idaho, July 7 through 9, 1960, that the Committee on the Reform of Inferior Courts be discharged and disbanded effective immediately and that said committee deliver their files to its replacement committee as hereinafter provided, and be it further

RESOLVED, That the Commissioners of the integrated Bar of the State of Idaho be and are hereby authorized and directed to forthwith appoint a new committee to replace the functions of the Committee on the Reform of Inferior Courts, and to have the additional duty to conduct studies and make recommendations for any reforms that might be advisable in any of the courts or tribunals in the State of Idaho, and that such a new committee be called the 'Reform of Courts Committee.'"

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Is there a second?

VOICE: Second.

PRESIDENT BELLWOOD: Any discussion or debate?

All those in favor say so by saying aye. Those opposed no.

PRESIDENT BELLWOOD: Motion carried.

MR. JOE ANDERSON: Resolution number 10.

"WHEREAS The Idaho State Bar has expressed desire for world peace through law, and

WHEREAS, the American Bar Association has asked for the positions of State Bar associations upon the repeal or retention of the Connally Amendment,

NOW, THEREFORE, BE IT RESOLVED that the Idaho State Bar do hereby authorize and direct the Board of Commissioners to conduct a referendum to be completed by August 15, 1960, to all members upon their desire for the retention or repeal of the Connally Amendment."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Is there a second?

VOICE: Second.

PRESIDENT BELLWOOD: Any discussion or debate?

MR. RALPH BRESHEARS: Mr. President, Mr. Breshears. I move a substitute resolution that this bar go on record in favor of the retention of the Connally Reservation, and to put it into appropriate form:

Be it resolved by the Idaho State Bar Association that it opposes the repeal and favors the retention of the Connally Reservation.

VOICE: I second the substitute motion.

PRESIDENT BELLWOOD: You have heard the substitute motion and second. Is there any discussion or debate on the substitute motion. Mr. Ranquist beat you, Ralph.

MR. HAROLD RANQUIST: I myself was unable to be here to hear the discussion that was carried on concerning the Connally Amendment. I know that there are among the Idaho Bar a great many other members who are not yet fully aware of all the implications of this particular reservation, and therefore believe that it would be wise to permit them adequate time in which to study the implications of this.

PRESIDENT BELLWOOD: Mr. Breshears.

RALPH BRESHEARS: Mr. President, I think this is an important thing. For the bar to leave this matter to a referendum it seems to me might result in binding the delegate of this associate at the next meeting of the American Bar Association to do something that is not in the best interests of the United States because of the fact that those people who are submitting a vote by referendum will not have had the advantage of the debate that we had here the first day of this meeting, and will not have had the advantage of the information that this meeting has with respect to the Connally Reservation.

Now, just a word or two about the World Court. Some things that perhaps were not brought out in that debate. This world court as has been said is composed of fifteen judges. On that court there is a judge from Soviet Russia, a judge from Poland and a Judge from nations of the world that have no conception of the question of what is or is not a domestic question as affects the free world nations.

Soviet Russia and Poland have not accepted jurisdiction of the World Court. I leave it to you as to how the judges representing Soviet Russia and Poland would vote on any question where the United States or a member of the free world is involved. In the United States, in England and in the Common Law countries we have guides for our judges to follow. They talk about a body of international law. There isn't any. Our courts in this country have some guide for the purpose of determining whether or not they have the right to take jurisdiction of any question. It seems to me that if we want to promote world peace through law that this can be approached on a treaty by treaty basis. We

can enter into a treaty with a country that we know will keep its commitments, with France, with England, with any country that will abide by what it has agreed to. And in that treaty we can provide that in the event of a dispute, the matter be submitted to the world court for adjudication.

Why should this country, in the present state of world affairs, surrender its sovereignty and the right to determine what is or is not a domestic question? All the Connally Reservation does is say that the world court shall not have jurisdiction over matters that are domestic as determined by the United States. Why should we release to fifteen judges that have no conception of our form of government the right to determine whether or not a question submitted to that court is domestic as far as we are concerned? How are we promoting peace through law by submitting to Soviet Russia and Poland and all of the other satellites the right to determine what affects us domestically.

I happen to be a member of the Standing Committee of the American Bar Association on World Peace through the United Nations. And about six weeks ago we met in Denver and adopted a resolution to be submitted to the House of Delegates opposing the repeal of the Connally Reservation and favoring its retention. I would dislike very much to have this Bar Association postpone or delay action upon this important question. I would like very much to see this Bar Association support the Standing Committee of the American Bar Association.

PRESIDENT BELLWOOD: Mr. Peterson.

MR. PHILIP E. PETERSON: I would like, without continuing the debate or opening the debate all over again, to suggest that we could debate this problem in the local bar associations. I might point out that of the fifteen members the Polish member of the International Court of Justice was a member of that Court before the United Nations when Poland was a member of the free world.

PRESIDENT BELLWOOD: Mr. Reed.

MR. REED: Mr. Chairman, before this body should decide upon this question, I should think it possibly should be noted that the debate held two days ago was very enlightening, but I counted the attendance and it varied between 33 and 45 during the course of it. I think that for that number to speak for the 480 members of the Idaho State Bar is somewhat presumptuous. This same question was presented to the Third District Bar on the motion Mr. Breshears has made, and after some extensive debate it was moved to table it by some two-thirds. And I think the feeling there was a lack of understanding of all the implications of the people who were voting. This is a very serious matter. I can see nothing wrong with requiring each member of the bar to vote for himself, make up his own mind, rather than have the small representative group here do it for them. The matter of urgency, the difference between now and August 15th somehow does not seem significant.

PRESIDENT BELLWOOD: Any further debate or discussion on the substitute resolution?

VOICE: Question.

PRESIDENT BELLWOOD: The question has been called for. Being a matter of policy it will be voted by local bars.

(At this point, a short recess was taken.)

PRESIDENT BELLWOOD: The meeting will come to order. The question

has been called. We will vote by local bar associations.

VOICE: Mr. President, point of order. Isn't it necessary before this association—before that new motion may be considered to have a two-thirds vote on whether it can be considered?

PRESIDENT BELLWOOD: No, that's a substitute motion and doesn't come within that rule.

Shoshone County Bar Association. We are voting on the substitute motion and resolution proposed by Mr. Breshears. No representative here yet from Shoshone Bar, is that correct? Clearwater Bar Association.

VOICE: Clearwater Bar Association, 66 votes no.

PRESIDENT BELLWOOD: Third District Bar Association.

VOICE: On advice of the parliamentarian, the Third District Bar Association casts 179 votes in favor of the motion.

MR. BRUCE BOWLER: Mr. Chairman, point of order. Bruce Bowler. I challenge the validity of the vote of the Third District and I want to make this a matter of record. I voted in opposition to the substitute motion. I am in attendance here, of course. My vote is not considered. We have a directive from the Third District which stated that the unit rule for this district was only to be voted in situations where the matter had been considered in substance by the Third District, and so passed. That is not the fact as to what has happened here, and I challenge as a matter of record the validity and propriety of the 179 votes cast by the spokesman for the Third District.

PRESIDENT BELLWOOD: What is your rule? I don't know that I understood it from your statement, Mr. Bowler. What is your local rule as to voting at these conventions?

MR. JOE IMHOFF: Mr. Chairman, Joe Imhoff, Boise. In a manner I wish to state that I somewhat appreciate the challenge made of this vote because I am frankly not sure whether I have the authority to cast the 179 votes for the association. That's why I prefaced my vote by saying that upon recommendation of the parliamentarian I so voted. For purposes of clarification I don't know if this is outside of the record as far as the association is concerned.

Reading the minutes, as prepared by the Secretary of the Third District Bar of our last meeting when this was proposed, they say: "It was thereafter moved and seconded that the representatives from this association to the State Bar Convention in July, 1960, be bound by the action of this association on all matters considered by it prior to said convention, and to cast a unanimous vote on all resolutions brought before the convention in substantially the same form as acted upon by the association upon discussion and vote being taken. Said motion was adopted."

Now, at that meeting a committee report was read and the committee asks for an adoption of their motion that the Connally Amendment be retained. Upon discussion and vote it was resolved that the motion be tabled to further discussion and action after this meeting. Now, the substitute motion as made by Mr. Breshears is substantially in the same form as the motion that was made in this meeting, and that motion, as I just mentioned, was tabled. Now, we took a poll of the delegation here during our recess and we received a vote of eighteen for and

seven against the substitute motion. We discussed among us as to whether or not I was bound to vote the 179 votes in favor of the substitute motion or whether the 179 votes as a unit vote should be a proportion in accordance with the vote here taken. And again passing the buck to the parliamentarian, I solicited his advice and it was the consensus of opinion of the members present from the Third District Bar and the parliamentarian that 179 votes in a unit be cast, which I subsequently did.

PRESIDENT BELLWOOD: Mr. Ranquist.

MR. RANQUIST: I think that Joe has made a very good case for a vote for the Third District Bar against the present substitute motion or substitute resolution by reason of the fact that we voted to table it and consider it after this particular meeting. Therefore, on the rule that we chose to bind ourselves in substance, we did consider the motion of whether or not this should be—the Connally Amendment should be—retained, and we voted that it should be acted upon later, subsequent to this convention, which would be substantially in effect supporting the original motion on the floor and in opposition to the substitute motion.

VOICE: I can't let Harold get away with that on a challenge. It is my observation that a motion to table is to not consider the motion before the body as a matter of ordinary parliamentary procedure. There is no action taken, and no consideration therefore. I don't think that this delegation is bound at all for the reason that it was not considered. It was tabled. It was left to the delegates of the Third District Bar to come up here and make this decision for the Third District. I feel that Harold is exaggerating when he says that a motion to table includes taking consideration of the subject matter back at some later time. I don't think you will find anywhere in the minutes or anywhere else that it went that far. It was merely a motion to table. Consequently I quite agree with the parliamentarian who says that Mr. Imhoff is correct in stating the unit rule in this matter. I would like to point out the motion said it would be tabled to a time certain, that time certain being subsequent to this meeting.

PRESIDENT BELLWOOD: Anyone from any of the other local bars like to get in here and help? Judge Young.

MR. MERLIN S. YOUNG: Mr. President, to resolve this, I ask the chair to rule whether they accept the Third District vote or not. If the ruling is not acceptable, it may be put to the entire house.

PRESIDENT BELLWOOD: The chair rules that the vote will be received as given.

Fourth and Eleventh District Bar.

VOICE: Having polled our delegation and being bound by the unit rule, the Fourth and Eleventh Judicial Bar Association votes against the substitute motion.

PRESIDENT BELLWOOD: Fifth District Bar.

VOICE: Fifth District Bar votes 37 votes against and 37 votes in favor.

VOICE: Mr. President, point of order.

PRESIDENT BELLWOOD: Yes.

VOICE: I don't know that there is any specific provision in the rules covering this, but it is about time at these annual meetings that we find out or determine whether or not you can split a vote. My understanding is that it must be on the

unit basis, and I request a determination be made by the chair as to the propriety.

PRESIDENT BELLWOOD: Just for your information out there I will read a brief portion of that rule. "And the members of any local present at such annual meeting shall cast the entire vote of the members of such local." And the chair rules that Mr. Johnson just did that.

Sixth District Bar.

VOICE: Sixth District Bar Association votes 20 votes against.

PRESIDENT BELLWOOD: Seventh District Bar.

VOICE: 49 votes for.

PRESIDENT BELLWOOD: Eighth District Bar.

VOICE: 47 votes for the substitute motion.

PRESIDENT BELLWOOD: Ninth District Bar.

VOICE: 38 votes against the resolution, but by the unit rule.

PRESIDENT BELLWOOD: Twelfth District Bar Association.

VOICE: Seventeen votes against.

PRESIDENT BELLWOOD: Does anyone representing the Shoshone County Bar appear? (No answer.)

The vote is 312 yes or in favor and 259 against. It carried.

MR. JOE ANDERSON: Resolution Number 11.

"BE IT RESOLVED that the Idaho State Bar urge and support the passage by the Idaho legislature of an Administrative Procedure Act in substantially the form prepared by the Idaho State Bar Committee for the Administrative Procedure Act with the following express amendment:

Section 2 (1) to be amended to read as follows: 'Each agency must adopt rules governing the formal and informal procedures prescribed or authorized by the Act. Practice before any agency shall be limited to persons licensed to practice law in the State of Idaho. Such rules shall also include rules of practice before the agency, together with forms and instructions.'

Mr. Chairman, I move the adoption of this resolution.

MR. CHARLES JOHNSON: Mr. Chairman, I second it.

PRESIDENT BELLWOOD: Any discussion or debate on the motion and resolution?

VOICE: Question.

PRESIDENT BELLWOOD: Question has been called for. We will again vote by local bars.

(Then followed the vote by District Bar Associations.)

PRESIDENT BELLWOOD: Carried unanimously.

MR. JOE ANDERSON: Resolution number 12.

"WHEREAS, it is the opinion of the legislative committee that the statute relative to attachments and garnishments and wrongful detainer are unworkable and obsolete, require unnecessary procedure, and due to complexity in part, at least, have not been fully enforced by the courts;

BE IT RESOLVED That the Idaho State Bar, through appropriate and proper committee, cause a study to be made and proposals formulated for submission to the Idaho Legislature for the revision of the statutes relating to attachments and garnishments and wrongful detainer, so as to provide a workable and efficient remedy to attaching and garnishing litigants and property owners, as well as protection to the defendant."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Is there a second?

VOICE: Second.

PRESIDENT BELLWOOD: This resolution, as I understand it, calls for a study. Is there any discussion or debate on the resolution?

MR DALE MORGAN: Dale Morgan from Boise. I submit one question. Does that contemplate also, as a part of the revision, a revision of the statutes with respect to exemption? Because as I see it that is one of the major problems that exists today.

PRESIDENT BELLWOOD: The language is revision of the statutes relating to attachments and garnishments and wrongful detainer.

MR. DALE MORGAN: Do you mean to say you intend to leave the exemption statutes the same as it is?

MR. JOE ANDERSON: Any member of the legislative committee here to answer the question? I don't have the answer to the question. That wasn't considered by the resolutions committee.

PRESIDENT BELLWOOD: Is there no member of the legislative committee present? Any further discussion or debate or questions? Are you ready for the question?

All those in favor signify by saying aye. Those opposed no. Carried.

MR. JOE ANDERSON: Resolution number 13.

"WHEREAS, there is a discrepancy between legal holidays as defined and established by the legislature in Section 73-108, Idaho Code, and non-judicial days as established by Section 1-1607, Idaho Code, and it is deemed proper that the two statutes should be correlated;

NOW, THEREFORE, BE IT RESOLVED That the Idaho State Bar propose and sponsor before the legislature of the State of Idaho an amendment to Section 1-1607, Idaho Code, to provide that court shall not be open, nor any judicial business transacted, on legal holidays enumerated by Section 73-108, Idaho Code, or on a day on which the general election is held, except for the purposes set forth in said statute."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Do I hear a second?

VOICE: Second.

PRESIDENT BELLWOOD: You have heard the motion and second. Is there any discussion or debate of the question?

VOICE: Question.

PRESIDENT BELLWOOD: The question has been called for.
(Then followed the vote by District Bar Associations.)

PRESIDENT BELLWOOD: Motion carried.

MR. JOE ANDERSON: Resolution number 14.

"WHEREAS, statutes of the State of Idaho do now provide that each foreign corporation qualifying for business in Idaho designate an agent for the service of process, and, whereas, due to the difficulty of ascertaining the names and addresses of said agents and this practice has made service of process difficult; and

WHEREAS, the statutes have heretofore provided that service of process on foreign insurance companies shall be made upon the Commissioner of Insurance, which service has been simple, complete and the procedure satisfactory, and it is deemed logical that similar provisions should be made for service of process upon foreign corporations qualified in Idaho upon the Secretary of State;

NOW, THEREFORE, BE IT RESOLVED That the Idaho State Bar, through its proper committee, draft and sponsor amendments to the statutes of the State of Idaho to provide that the Secretary of State of the State of Idaho shall, by operation of law, be an agent for service of process upon such foreign corporation, that such foreign corporation shall instruct said Secretary of State as to the disposition of such process; that thirty (30) days be provided within which such foreign corporation may appear and answer said process, and any other amendments in order to effect the general purpose of this proposal.

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Do I hear a second?

VOICE: Second.

PRESIDENT BELLWOOD: The motion has been made and seconded. Any discussion or debate?

MR. TED EBERLE: Mr. Chairman, I would like to question the wisdom of this particular amendment. I believe the present statutes are quite adequate, and to pass this amendment would be to completely sever the right of a foreign corporation to select its own agent. In other words, the present statutes allow the selection of an agent by a foreign corporation. If he can not be found in the county where his residence is, service may be made upon the auditor. This certainly provides an adequate means of service. I would point out certain facts in relation to this that may not be generally known. At the present time there is about 68 lawyers who are designated as statutory agents. I see no reason of removing a particular part of the legal practice from the lawyers of the State of Idaho. Certainly this would merely centralize it in Boise where now you can centralize it in the local counties. I would also point out that there are only eight states in the United States out of fifty that require service on a foreign corporation on a Secretary of State or other centralized person. I would question that there is an adequate necessity for that change based on the fact that this statute has been in operation for many years, and it would appear has adequately taken care of the situation.

The reason given that you don't know who to serve is rather a fallacious one. A mere inquiry of the Secretary of State gets you an immediate answer. Certainly if the Secretary of State isn't telling you who to serve, he isn't qualified to take care of your service. Putting it in his hands doesn't answer that problem. The statute may be running and you are in a hurry to serve and therefore you don't want to inquire in Boise. The answer to that is you can file your complaint, and

that takes care of the statute, and you can subsequently determine who you should serve. I would ask the committee if it wouldn't point out the real reason behind this. I do not see the one given in the resolution at all. I would also point out the serious problem of responsibility. If the present State Auditor fails to mail the summons, he isn't liable for it. If you serve an agent of a corporation and he doesn't do anything, you can proceed and get your judgment. What happens if the Auditor, or if the proposal is adopted, the Secretary of State, mails the summons to the wrong place or fails to mail it? I question whether you have got anything. I think you are getting into a good deal of difficulty that's unnecessary. But I would particularly call attention to the fact I think a foreign corporation has a right to select an agent. And I think the matter has been expeditiously handled. I know of no difficulties. I might add we did solicit comments from every sheriff in Idaho asking them what difficulty they might have. And only one of those sheriffs said he had had any difficulty. So I submit to this body there is no reason for this amendment, and it is merely going to get us into complications.

MR. L. H. ANDERSON: Mr. President, maybe I am in a different situation than some of the rest of them. I am statutory agent for several of my clients, and unfortunately they know where to find me too easily. And I don't see how they can get into any difficulty if they call up the Secretary of State. He will tell them right quick who the statutory agent is.

PRESIDENT BELLWOOD: Any further discussion or debate? Are you ready for the question?

VOICE: Question.

PRESIDENT BELLWOOD: Question has been called for. Shoshone County Bar. Clearwater Bar Association.

VOICE: Mr. President, as instructed I vote 66 votes no.

PRESIDENT BELLWOOD: Third District Bar.

VOICE: 179 votes in favor of the resolution.

PRESIDENT BELLWOOD: Fourth and Eleventh District Bar.

VOICE: 81 votes in favor.

PRESIDENT BELLWOOD: Fifth District Bar.

VOICE: 74 votes against.

PRESIDENT BELLWOOD: Sixth District Bar.

VOICE: Pass.

PRESIDENT BELLWOOD: Seventh District.

VOICE: 49 votes no.

PRESIDENT BELLWOOD: Eighth District.

VOICE: 47 votes against.

PRESIDENT BELLWOOD: Ninth District.

VOICE: 38 votes for.

PRESIDENT BELLWOOD: Twelfth District.

VOICE: 17 votes for.

PRESIDENT BELLWOOD: Sixth District Bar.

VOICE: Sixth District votes 20 votes no.

PRESIDENT BELLWOOD: The vote is 315 in favor and 256 against. Carried.

MR. JOE ANDERSON: Resolution number 15.

"WHEREAS, Idaho is the only state of the adjacent 48 states not now having an operating legislative counsel, and

WHEREAS, it is deemed essential that such office be created and funded to the end that this office become operative and,

WHEREAS, only in this manner can any continuation and planning of legislative reform and growth be attained,

NOW, THEREFORE, BE IT RESOLVED that the integrated Bar of the State of Idaho use its best offices to impress upon the next, and all subsequent sessions of the Idaho Legislature the importance of adequate legislation for creation and funding and to implement the immediate and continuous operation of the office of legislative counsel."

Mr. Chairman, I move the adoption of this resolution.

VOICE: Second.

PRESIDENT BELLWOOD: It's been seconded. Any discussion?

VOICE: Question.

PRESIDENT BELLWOOD: Question has been called for. All those in favor signify by saying aye. Opposed, no. Carried.

MR. JOE ANDERSON: Resolution 16.

"BE IT RESOLVED by the Idaho State Bar Association, that

WHEREAS, the Pacific Digest published by the West Publishing Company has, ever since the volume 100 Pacific (2d), been fragmentary and piecemeal so as to make its use tedious, time-consuming, and extremely unsatisfactory for the use of a practicing attorney.

NOW, THEREFORE, BE IT RESOLVED, that the West Publishing Company is hereby requested to produce a Digest for the Pacific Reporter covering the volumes subsequent to 100 Pacific (2d) in a usable form, preferably with a pocket part system for additional volumes of the Pacific (2d) as they shall subsequently appear."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Is there a second?

VOICE: Second.

PRESIDENT BELLWOOD: It's been seconded from the floor. Any discussion or debate?

VOICE: I have been trying to understand it, but Mr. Anderson spoke so fast I for one couldn't even follow him. I wonder if it would be asking too much to ask it be read over. I don't want to delay the proceedings.

PRESIDENT BELLWOOD: Yes, it can be read over.

"BE IT RESOLVED by the Idaho State Bar Association, that

WHEREAS, the Pacific Digest published by the West Publishing Company

has, ever since the volume 100 Pacific (2d), been fragmentary and piecemeal so as to make its use tedious, time-consuming, and extremely unsatisfactory for the use of a practicing attorney.

NOW, THEREFORE, BE IT RESOLVED, that the West Publishing Company is hereby requested to produce a Digest for the Pacific Reporter covering the volumes subsequent to 100 Pacific (2d) in a usable form, preferably with a pocket part system for additional volumes of the Pacific (2d) as they shall subsequently appear."

JOHN DALY: This is a unique situation as far as I know where we as a group are recommending to a publisher that the book be produced. Now, I am sure West Publishing Company has got lots of people trying to determine what kind of books they can sell us. What kind of position are we in when officially we ask as a bar association West Company to produce a set of books? Does that obligate us to buy it? I suppose it would.

PRESIDENT BELLWOOD: Any further discussion or debate?

VOICE: Question.

PRESIDENT BELLWOOD: The question has been called for. All those in favor of the motion of the resolution, signify by saying aye. Those opposed, no. It failed.

MR. JOE ANDERSON: Resolution number 17.

"WHEREAS full and adequate consideration of proposed resolutions to the Idaho State Bar is to be encouraged;

NOW, THEREFORE, BE IT HEREBY RESOLVED that resolutions submitted as required by June 1st of each year be printed in *The Advocate* or a supplement thereof and distributed to members of the Idaho State Bar no later than June 15th of each year."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Is there a second?

VOICE: Second.

PRESIDENT BELLWOOD: Any discussion of that motion?

VOICE: Does that contain an enabling appropriation?

PRESIDENT BELLWOOD: Any further discussion?

VOICE: Shouldn't that publication date be moved forward. That is pretty late for consideration by the local bars. And shouldn't it be not only published but mailed?

MR. JOE ANDERSON: The resolution calls for distribution. I assume mailing would be used rather than personal distribution. And the reason for the date was that the resolution was adopted last year to provide the resolutions be submitted by June 15th. To make a different date we would have had to go back and amend the one that was adopted last year to provide a different day for the submission. From that date until the meeting would give adequate time for a meeting of the local bars.

PRESIDENT BELLWOOD: Some of the remarks were prompted by what I understand to be mis-mailing of some of these *Advocates*. I don't know what happens to them. I know we get a bill for mailing them. Any further discussion?

VOICE: Question.

PRESIDENT BELLWOOD: The question is called for. All those in favor of the motion and resolution, signify by saying, aye. Those opposed, no. Carried.

MR. JOE ANDERSON: Resolution 18.

"BE IT RESOLVED that the Idaho State Bar express its thanks and appreciation to the officials and personnel of Sun Valley for the efficient and courteous service and arrangements for this Convention."

Mr. Chairman, I move the adoption of this resolution.

PRESIDENT BELLWOOD: Do I have a second?

VOICE: Second the motion.

PRESIDENT BELLWOOD: May I have unanimous consent on this one? All those in favor say aye. Opposed, no. Carried.

MR. JOE ANDERSON: With the chair's permission, I will read the next three resolutions combined. Resolution 19.

"BE IT RESOLVED that the Idaho State Bar express its thanks to the Commerce Clearing House, Lawyers' Cooperative Publishing Co., West Publishing Co., Bancroft-Whitney Co., Voter Publishing Co., and Mathew-Bender Company, for their contributions of law books for door prizes at the Convention." Resolution 20.

"BE IT RESOLVED that the Idaho State Bar express its thanks and appreciation to the Rev. W. D. Ellway for the opening Invocation, and to Stanley M. Doyle, President of the Montana State Bar, and to George S. Balliff, President of the Utah State Bar, for their attendance and participation in the convention." Resolution 21.

"BE IT RESOLVED that the Idaho State Bar express its most sincere thanks and appreciation to the Honorable Robert E. Snylie, Henry F. McQuade, Albert E. Jenner, Jr., Frank E. Holman, F. Trowbridge vom Baur, and Carl F. Conway for their attendance at this convention and for their most interesting and informative addresses and participation on the Convention program."

Mr. Chairman, I move the adoption of these three resolutions.

PRESIDENT BELLWOOD: Do I have seconds?

VOICE: Second.

PRESIDENT BELLWOOD: The chair requests unanimous consent. Do I have it? Carried.

MR. JOE ANDERSON: Resolution 22.

"WHEREAS the Idaho State Bar through its Commissioners and Committees has contributed to the advancement of the legal profession, and

WHEREAS, the Commissioners, Sherman J. Bellwood as President, J. Blaine Anderson as Vice-President, and Marcus J. Ware as Commissioner, and members of various committees of the Idaho State Bar have contributed their time, efforts and services toward the betterment of the legal profession and to the Idaho State Bar,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Idaho State Bar that appreciation and thanks be extended the Commissioners and the various

committee members for their work and efforts, and that the President, Sherman Bellwood, be commended for his leadership and services to the Idaho State Bar."

I move the adoption of this resolution, Mr. Chairman, and ask for its unanimous passage by acclamation by a standing ovation for the Commissioners.

Mr. Chairman, that completes the report of the Resolutions Committee.

MR. JACK HAWLEY: Mr. Chairman. I rise to a point of personal privilege. I am neutralized here as a parliamentarian, but there is one resolution that hasn't been presented, and I think it is very much in order. If possible I would like to move from the floor here. But it involves this: I would like to thank Ina Mae Wheeler as Editor of *The Advocate*, and all those who have contributed to it. We have got two or three in Boise, Gene Thomas and Bill Langroise that contribute an awful lot of their time to the articles, and Ina Mae spends a lot of her time gathering data and getting this paper out. And I think that the Bar ought to express their appreciation to Ina Mae and all those who do the work on *The Advocate* for free.

VOICE: I second the motion.

PRESIDENT BELLWOOD: The chair is certainly in favor of that motion, and I ask unanimous consent. Do I have it? It will appear in the proceedings then.

At this time the chair will recognize A. L. Merrill.

MR. A. L. MERRILL: Mr. Chairman, gentlemen: A committee of the American Bar Association has been assigned the duty of developing some recommendations for the admission to practice and the examination given to those applicants, and therefore they have adopted a code, that is to say, the committee has agreed upon a code of recommendations, recommended standards for the bar examiners.

This would provide first the qualifications of bar examiners, the tenure of their office, their compensation and direct devotion to duty, essential conduct and the adverse influences, conflicting duties and inconsistent obligations. All of these headnotes are outlined in the recommendations. Then second, the eligibility of applicants defining what qualifications the applicants must have. Third, the moral character of the applicants showing that they have been—that has been looked into and whether or not they are recommended for admission to the bar and for the bar examination. How it is to be given, how it is to be judged and what determination is to be made of the questions submitted. And the grading and examination is a very important matter, and how this is to be conducted.

It is suggested here that the graders be of a very good character, and that their past history be such as to enable them to determine the qualifications of the applicant for admission. And it is suggested that wherever there is a law school in the state that a member of the law school be one of these commissioners, or rather one of these graders of the applicants.

Then it goes on further with the administration of the work. Now, there's been over the United States an interesting situation. It is becoming more apparent that lawyers from various states go into other states for practice or for submission of their cases, and it is thought that it would be highly advantageous to the Bar if there should be a uniform code throughout the United States so that the judges of every court would know that one who comes before his court from another

state that has been admitted may be of the character and quality which is of the same type of the state that comes before him generally.

It is sometimes observed that applicants come in to try cases who have been admitted to the bar of their state that would not have been admitted to the bar of the state in which they come, had they been presented there. As an illustration there comes to my mind the suggestions that the Supreme Court admit the applicant and they had a rule that there be three questions submitted. And so an applicant came before them one day. They asked him a question and he answered it. They said you are right. They asked him another question and he answered it. They said, no, you are wrong. They asked him a third question and he said, "I don't know." The Judge says, "you are right," and they admitted him. Well, that sort of a situation is not, of course, acceptable today. Now, what I would like to know is whether or not you feel that this code of standards might be adopted here in Idaho.

It relates the fact that we are under the code that has been adopted of civil procedure, and for the adoption of applicants and so forth, and at this time requires some amendment to that code.

I didn't get this information, that is to say this pamphlet, until I got it in my mail yesterday, and therefore I had no opportunity to present it before the committee. I would like to suggest to you that consideration be given it, and if any of you have any questions concerning it, address me within the next few days, and before August the 22nd at Pocatello, Idaho, so that I could report to the chairman of the committee what the reaction of the Idaho Bar is to the adoption of this recommended standard or code of standards for the bar examiners. I believe, Mr. Chairman, that's all I have to suggest with reference to it. I realize that I am not in order to ask for any resolution concerning it, and that you have not had the time to give it adequate study to determine whether or not it should be adopted.

PRESIDENT BELLWOOD: Thank you, Mr. Merrill. I believe copies of those have been furnished by Mr. Merrill, to the extent that he had them at least, to the Commissioners and Secretary not very long ago. If anyone wants to see them they can get them.

I will now turn the meeting over to your new President, Blaine Anderson.

PRESIDENT J. BLAINE ANDERSON: Thank you very much. I know now how all of my predecessors have felt at this moment. I assure you I approach this with humbleness and trepidation. However, I think if I am able to keep in mind some of the admonitions of Carl Conway concerning alertness, cooperation and intelligence I may be able to do you a good job.

With the tutelage that I have had from Skinny St. Clair, Clay Spear, Sherman Bellwood; with the wise counsel and assistance that I have had from Mark and I know I will have from Gleu; with the assistance of our able Secretary, I think we can carry out the program which we have had handed us this day, and also on pending matters. Thank you very much.

PRESIDENT BELLWOOD: We will entertain a motion to adjourn.

MR. BERT LARSON: Mr. Chairman, before that motion, I have attended several of these meetings and heard great and glorious things said about our immediate past Secretary, Mr. Paul Ennis. I believe this meeting has gone very well.

I understand this is the first Tom Miller has had the whole responsibility on his shoulders. I think the arrangements have been well made. I propose a standing ovation to our new Secretary, Mr. Tom Miller.

PRESIDENT BELLWOOD: Very much in order.

VOICE: Move we adjourn.

PRESIDENT BELLWOOD: We are adjourned. See you next year.

Appendix

President's Report

It is not surprising that the preparation of the last pages of my final report to the Idaho State Bar should stir waves of nostalgia as I review the experiences of the past year. I can think of no richer experience for a lawyer than that which accompanies the honor of serving as your president. It has been rich in personal relationships, fascinating in its variety and humbling in its responsibilities.

The number of speaking engagements and personal appearances available to the President during the past year is a tribute to the Idaho State Bar. The number of times your President, officers and your committees were called upon by the American Bar Association and other state bars is a recognition of the growing stature of the Idaho State Bar.

I cannot, of course, accept applause or acclaim for the higher station of our bar. We are where we stand today by reason of the selfless efforts of many devoted and dedicated members too numerous to name here. Just as the accomplishments of 1959-1960 were the culmination of those efforts, so the fruits of the years to come will grow from seeds planted now. The strength of our State Bar stems from the continuity of leadership and the development of projects from one year to the next. But the main source of our strength is to be found in the individual members of the Bar.

During the past year I have enjoyed associations with lawyers from every part of the state. My opportunities for observations were great. I have observed a general awakening of the organized bar, but especially in the individual members themselves. They are beginning to feel some purpose in their organization—in getting together to seek and achieve common goals. Accordingly, we are beginning to see the many directions and the limitless space in which we can aim our organized effort—not only for the good of the profession, but especially in the public interest. We perceive the inherent interdependence of the lawyers, and of the individual lawyer and the Idaho State Bar. We begin to envision the same interdependence and connection between our state and national organizations.

It is becoming apparent that one who undertakes the practice of law cannot rest content with the faithful discharge of duties assigned to him by others. We are coming to the full realization that a lawyer's work must find its direction within a large frame; that all he does must evidence a dedication, not merely to a specific assignment, but to the enduring ideals of his vocation. More lawyers in Idaho than ever before are seeking, and finding, a clearer understanding of their duties, and are thus led to reflect on the special services their profession renders to society, and, more important, the services it might render if its full capacities were realized. Therein lies our strength for the future.

And as a result, the Idaho State Bar has a vigorous program directed against the unauthorized practice of law, a program second to none on a comparative basis. This is so because our bar recognizes its responsibility to the public to protect it from the untrained.

The vigor of the Idaho State Bar is further evidenced by its accelerated professional ethics program. Investigation of every complaint, formal and informal, down to the minute dissatisfactions, is the rule; and investigation is followed by formal disciplinary proceedings where warranted. This is so because our Bar recognizes its responsibility to the public and the profession to protect each against the unethical. In addition, and in recognition of individual responsibilities, lawyers are more frequently calling upon our state committee for opinions on close ethical questions.

The present vitality of the Idaho State Bar is assured for the future by its regenerated continuing legal education program. Under our new program of CLE we have a dedicated director and policy committee. With financial assistance from the University of Idaho's adult education budget, and the available assistance from Idaho State College, the new CLE program will be launched this fall. Its success is assured. This is so because the Idaho lawyer is more clearly recognizing his obligation to continue his education throughout his professional life. He is recognizing his duty to meet the demands of the public interest that lawyers be competent craftsmen with a clear understanding of their professional responsibilities.

The seeds of progressive programs in other areas too numerous to detail here have been sown. They will, without doubt, come to fruition in due time with the nourishment of active, interested and enlightened membership in our organized bar.

As my presidency draws to its fulfillment, I am impressed by the growing prestige and extending sphere of influence of the Idaho Bar. It is good that it is so, because there always remains much to be done. My year was richly rewarding by the loyalty to the bar, and the tireless assistance and devoted service of many lawyers throughout the state. I wish I could thank them all here. Theirs is the major share of the credit for the fact that the Idaho State Bar stands where it does today. And a year from now it will stand still higher under the able and outstanding service my successor, J. Blaine Anderson, will render to the Bar.

In closing, who can put it more appropriately than Judge Learned Hand?

"And if at the end some friendly critic shall pass by and say: 'My friend, how good a job do you think you have made of it all' we can answer: 'I know as well as you that it is not of high quality; but I did put into it whatever I had, and that was the game I started out to play.'"

SECRETARY'S REPORT

The Secretary is requested to make a report to be printed in the June issue of THE ADVOCATE, or read at the annual meeting, covering the financial condition of the Idaho State Bar, and other statistical information concerning membership, admissions to practice, deaths and certain of the activities of the Board of Commissioners.

The account books maintained in the Secretary's office, which are regularly audited by the State Auditor, reflect the following receipts, expenditures and

balance in the special State Bar Fund, a dedicated fund under the control of the State of Idaho:

EXPENDITURES	
June 1, 1959 to June 1, 1960	
Personal Services	\$ 6,406.00
Travel Expense	7,895.55
Other Miscellaneous Expense	4,703.17
Capital Outlay	346.50
Refunds	50.00
Social Security Transfer of Funds	176.51
General Fund Transfer	285.91
Total	\$19,863.64

RECEIPTS, BALANCE	
Balance on June 1, 1959	\$22,205.70
Receipts—June 1, 1959 to June 1, 1960	15,903.45
Sub-Total	38,109.15
Less Expense	19,863.64
Balance, June 1, 1960	\$18,245.51

The item of Personal Services covers salaries of a part-time Secretary, a full-time stenographer, bar examination monitor, and occasional part-time clerical help.

Travel Expense includes all costs of transportation expense and lodging for out-of-town travel for the Commissioners, the Secretary, the Standing Committees for occasional necessary joint meetings, speakers at the Annual Meeting, and a portion of the travel expense of the State Bar Delegate attending the meetings of the House of Delegates of the American Bar Association and meetings of the Interstate Bar Council.

The item of Other Expense includes the cost of printing the Proceedings of the Annual Meeting, that portion of the costs of printing and distributing THE ADVOCATE which exceed the income of the Idaho State Bar Foundation, Inc., other printing and mailing costs incident to circulating notices and other materials to the members of the Idaho State Bar, and office expense such as rent, telephone, postage, stationery, and other supplies.

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

The General Fund Transfers refer to the charges against the State Bar Fund by the State Auditor's Office for bookkeeping and auditing services rendered to the Bar.

Total expenditures for the year ending June 1, 1960, were \$2,408.80 more than in the preceding year. The increase and decreases (decreases are underlined>) were as follows:

Personal Services	748.88
Travel Expense	1,387.07
Other Expense (Miscellaneous)	78.51
Capital Outlay	301.95
Refunds	50.00
Social Security Transfer	63.98
General Fund Transfers	64.57

Receipts were \$182.45 more than for the preceding year.

Personal Services were increased primarily by reason of the necessity for hiring a full-time stenographer.

The increase in Travel Expense may be accounted for by reason of travel expenses incurred by members of the Examining Committee attending the central grading sessions at Boise and at Coeur d'Alene. In the previous year, the Examining Committee held only one central grading session, and in the other session graded at separate places within each Division. Also, since the receipts from registration fees at the Spring Institute were insufficient to cover speakers' travel expenses, such expenses were paid out of the State Bar Fund.

The increase in Capital Outlay represents the cost of purchasing a stenographer's desk, chair and adding machine.

The status of the Bar Trust Fund, a special fund not controlled by the State for the reason that the receipts are collected from sources unrelated to official funds, is as follows:

Cash on deposit, Idaho First National Bank,
Head Office, Boise, as of June 1st, 1960\$1,775.07
This compares with \$1,891.46 on hand in said account on June 1st, 1959.

The membership of the Idaho State Bar as of June 1, 1960, (and the comparative figures one year previous) is as follows:

	1959	1960	Change	
Northern Division	132	129	2.3%	Decrease
Western Division	303	309	2.0%	Increase
Eastern Division	147	150	2.0%	Increase
Military	2	2	0	
Out of State	29	26	10.0%	Decrease
	613	616		

On the basis of Local Bar Associations, the distribution of membership, which is the basis for determining voting power of each Local Bar under Rule 185, at the 1960 Annual Meeting, is:

Shoshone County Bar Association	16
Clearwater Bar Association	66
Third District Bar Association	179
Fourth and Eleventh District Bar Association	81
Fifth District Bar Association (Southeastern)	74
Sixth District Bar Association	20
Seventh District Bar Association	49
Eighth District Bar Association	47
Ninth District Bar Association	38
Twelfth District Bar Association	18
Sub-Total	588
Out-of-State	26
Military	2
Total	616

Since the last Annual Meeting of the Bar the following deaths have been reported:

NAME	PLACE OF DEATH	DATE OF DEATH	ADM. TO BAR
Barclay, Wayne A.	Jerome, Ida.	April 15, 1959	Jan. 6, 1925
Hunt, Judge E. E.	Sandpoint, Ida.	July 4, 1959	Nov. 7, 1921
Wormwood, Thurston P.	Missoula, Mont.	July 12, 1959	Sept. 24, 1912
Anderson, Walter H.	Pocatello, Ida.	July 24, 1959	March 17, 1917
Adamson, Larry B.	Seattle, Wash.	July, 1959	Sept. 24, 1951
Morris, Thomas Milton	Corvallis, Ore.	Aug. 4, 1959	Aug. 8, 1917
Purdy, Harold S.	Coeur d'Alene, Ida.	Sept. 15, 1959	June 1, 1916
Hyslop, Logan P.	Nampa, Ida.	Sept. 19, 1959	Sept. 17, 1912
Reed, James P.	Emmett, Ida.	Oct. 13, 1959	Nov. 30, 1908
Snow, Edwin	Boise, Ida.	Nov. 19, 1959	Dec. 9, 1904
Porter, Judge J. W.	Boise, Ida.	Dec. 9, 1959	Sept. 19, 1910
Graf, Judge Albert J.	Kellogg, Ida.	Dec. 21, 1959	June 9, 1922
Worthwine, Oscar W.	Boise, Ida.	Feb. 8, 1960	Dec. 16, 1911
Eldridge, J. B.	Boise, Ida.	Feb. 15, 1960	April 16, 1907
Glennon, Lawrence E.	Pocatello, Ida.	Feb. 24, 1960	Jan. 17, 1905
Wilson, Asher B.	Twin Falls, Ida.	March 30, 1960	May 4, 1914
* (Not previously reported)			
Beebe, Claude S.	Boise, Ida.	Dec. 23, 1957	Feb. 9, 1911

Two bar examinations were administered during the year, both in Boise. There were 21 applicants for the September, 1959, bar examination; 14 passed and seven failed. There were eight applicants for the April, 1960, bar examination; four passed and four failed. Of the total of 29 applicants, 18 passed and 11 failed for a percentage of success of 62%.

Three formal complaints were filed in this office in the past year, charging three Idaho attorneys with unethical conduct. Hearing has been had on one of these matters, and the evidence, findings, conclusions and recommendatory order has been sent to the Supreme Court, which is now considering a petition for review filed by the defendant. The other two complaints are ready for hearing, which will probably be held prior to the Annual Meeting. In all three cases, the Board of Commissioners has acted as the Committee on Discipline.

Three informal complaints were pending at the time of the last Annual Meeting, and twenty-four new ones were filed during the year. One complaint resulted in a reprimand, it appearing that although the attorney had breached one of the Canons, the breach was unintentional. Eighteen of the complaints were dismissed after preliminary investigation disclosed either lack of evidence or no grounds upon which to base formal disciplinary proceedings. There are eight informal complaints still pending.

At the time of the last Annual Meeting, an action for unauthorized practice of law was pending in the District Court in Caribou County against Ben L. Cole. The Defendant subsequently moved to another state, and the action not prosecuted further.

An action for unauthorized practice of law is now pending in the District Court in Nez Perce County against M. M. Belknap.

Several other matters have been referred to the Committee on Unauthorized Practice of Law, and it is expected that in one of the matters a complaint will be filed in District Court.

Respectfully submitted,
THOMAS A. MILLER

Continuing Legal Education Committee Annual Report

Your Committee on Continuing Legal Education of the Idaho State Bar is pleased to present its report covering the activities of the Committee during the year 1959-60.

This Committee, in cooperation with the College of Law of the University of Idaho, sponsored the Fifth Annual Fall Institute at Moscow, Idaho, on October 23rd and 24th, dealing with Creditor's Rights. The following papers were presented:

- Liens Affecting Realty—R. D. Merrill, Pocatello, Idaho.
- Secured Financing—Orval Hanseu, Idaho Falls.
- Exemptions and Priorities—Eli Rapaich, Lewiston.
- Unsecured Creditors—Thomas Mitchell, Coeur d'Alene.
- Liens Affecting Personality—James Towles, Kellogg.
- Claim and Delivery Actions—Edward L. Benoit, Twin Falls.

The lighter side of the program consisted of a skit presented by members of the Clearwater Bar Association.

The program on Creditors' Rights was presented at the Fifth Annual Spring Institute, which was held at Burley, Idaho, on May 13th and 14th. The Messrs. Merrill, Hansen, Mitchell and Benoit repeated their respective papers, and the following additional papers were presented:

- Bulk Sales—John L. Bloem, Idaho Falls.
 - Effect of Subsequent Bankruptcy on Creditors' Rights—A. C. Kiser, Boise.
 - Federal Tax Liens and Creditors' Rights—George Russell, Boise.
- Printed copies of the papers, together with accompanying forms, were distributed to all who registered for the Institutes.

Sixty-eight lawyers registered for the Fall Institute and thirty-eight for the Spring Institute.

From these figures it would appear that so far as the Institute proper is concerned, the Committee has reached just under 20% of the active bar. It was not felt by the Committee that the utilization of the same subject matter at both Institutes operated to limit the number of attorneys attending.

This repetition factor has, however, allowed somewhat greater attention to the subject matter and reduced the time expended in securing speakers. It is also in keeping with the scheme of the committee to present the bar with hot text and form material directed at the practice in Idaho.

The Committee held three meetings, July 10th, October 23rd and March 12th. All three members of the Committee attended the Fall Institute and at that time, along with the Commissioners and the Secretary met with the Board of Regents and the President of the University of Idaho to arrange for the new continuing legal education program under Paul Ennis, who will serve as Director.

The Committee gratefully acknowledges the courteous and unstinting cooperation of the Commission; the Secretary, Paul Ennis, the new Director of Continuing Legal Education; each of the able speakers, and the officers of the Clearwater and of the Fourth and Eleventh District Bar Association.

Herbert A. Bernau
Wesley F. Merrill
Raymond D. Givens

Unauthorized Practice of Law Committee Report
1958 - 1960

This report will cover the activities of this committee during the preceding two years. The undersigned chairman succeeded to the chairmanship of the committee after the unfortunate death of Jim Wayne during his term as chairman (1958-1959), and as a result no report was filed for 1958-1959.

At the time the last annual report was filed (for 1957-1958) by the then committee, J. Blaine Anderson, chairman, James W. Wayne and Charles Scoggin, members, the case of *Idaho State Bar vs. Meservy* was pending decision by the Idaho Supreme Court. In this case, according to the findings of the referee, the defendant, who was a former Justice of the Peace and Probate Judge, assisted another individual in the preparation of adoption papers. The defendant and his "client," using old adoption forms, prepared the adoption papers together. The conclusion reached by the referee, and adopted by the Supreme Court, was that the defendant did not violate the spirit and intent of the unauthorized practice statutes, and the complaint against the defendant was dismissed.

Another court case which was concluded during the period of this report involved one Beu L. Cole, who embarked upon the practice of law in Grace, Idaho, in July of 1958. Mr. Cole was not licensed to practice in Idaho, and, so far as the committee was able to determine, he was not licensed to practice in any other jurisdiction. He did, however, display in his office a diploma from "Blackstone Law School." Not being content to wait for prospective clients to discover his talents and to find their way to his office in the customary way, Mr. Cole advertised the opening of his office over a local radio station. The text of his radio ad might be of interest. According to station instructions, after an introduction of "soft inviting music," the announcer was to, and did, extoll Mr. Cole's virtues as follows:

"Attorney Ben L. Cole announces the opening of new law offices in Grace. Do you have a legal problem bothering you? Visit Ben L. Cole in new office in Grace for legal advice and help. Mr. Cole is a graduate of the Blackstone School of Law, and is highly qualified to assist you in all legal matters. Where a point of law is concerned, it's always better to be safe than sorry. For legal advice and assistance, visit the newly opened law office of Mr. Ben L. Cole in Grace, Idaho." (Appropriate spot music fadeout.)

In March of 1959, an original proceeding was filed in the Supreme Court charging the defendant with unauthorized and unlicensed practice of law. Thereafter, the Supreme Court advised that it would prefer these cases be filed originally in the appropriate District Court for the jurisdiction in which the unauthorized practice occurred. The original proceeding was then withdrawn, and a Complaint filed in the District Court for the Fifth Judicial District for Caribou County. Mr. Hugh C. Maguire, Jr., Attorney in Pocatello, Idaho, represented the State Bar and the Unauthorized Practice Committee, who were plaintiffs in the action. Mr. Maguire did an excellent job and should be highly commended for the results he accomplished, which were—Cole, after he was served in May of 1959, let the matter go by default, after which the District Judge issued an order directing that the defendant appear to show cause why judgment and decree should not be entered against him, as prayed in the Complaint. The sheriff was unable to make service of this order, since in the meantime defendant Cole had availed himself of an effective stratagem, *non presente, non punishum* (colloquial Latin the

writer's) by departing Idaho. His whereabouts are unknown. The judge was asked to continue the matter pending Mr. Cole's return to Idaho. If he returns, the matter will be processed to conclusion.

Several instances of advertising and sale of "Will Kits" came to the committee's attention. An individual named Pettibone advertised the sale of such kits from an address in Seattle, Washington. The kits included a printed form of will—

"To cover the need of the average married couple, with or without children," according to the newspaper ad used by Mr. Pettibone. The will form was—

"Printed on dignified and lasting ledger stock and is available for \$1 each. Better order two for husband and wife."

Tom Feeney, associated with the Unauthorized Practice Committee of Washington State Bar, which committee reported that it had interviewed and reprimanded Mr. Pettibone, who promised that he would stop filling orders immediately. The Washington committee advised that it would handle the matter further, and we closed our file.

Another instance involved the advertising of will forms in "Western Farm Life," a farm and ranch paper published in Denver and having circulation in Idaho. Tom Miller, Secretary of the Bar Association, called this to the attention of the secretaries of the State Bar of California and the State Bar of Colorado, with the suggestion those associations do what they could to stop this kind of advertising.

Another such merchant was J. A. Sunderstrom, who advertised himself as "Western Service Director with an address in Boise, Idaho." This matter was referred for investigation and handling by the Unauthorized Practice Committee of the Third District Bar Association in Boise, Idaho, and is pending at this time.

Another complaint from the Boise area concerning the drafting of a contract by a non-lawyer justice of the peace. This was also referred to the Third District Bar Association UPL Committee for handling. Report was recently received that the offender had been interviewed, and that committee was satisfied that he would commit no further violations.

During the period of this report, the committee received one complaint of unauthorized practice by an employee of a bank. The employee prepared, improperly, certain legal documents, which improper drafting caused trouble and expense for his clients. The committee discussed this matter with the president of the bank involved, and was assured that it was not the policy of the bank to condone the practice of the preparation of legal documents by any of its officers and employees. The bank president advised also that the committee's letter, calling attention to this violation, had been made the subject of a special letter to all of the bank officers, again cautioning them to forebear from any such unauthorized practice.

A complaint was received concerning preparation of warranty deed forms by employees of a federal agency in Idaho. The Regional Legal Officer of said agency was contacted, and a detailed explanation and defense of the agency's activities was received. The agency's letter is presently under study by the committee, and this matter is pending.

Several complaints were received of violations by lay insurance adjusters, consisting of, (1) representation of claimants before the Industrial Accident Board; and (2) dealing directly with injured claimants after having been notified that such claimants were represented by counsel. This was discussed with a representa-

tive of the Insurance Adjusters Association, and his attention called to provisions in the Statement of Principles adopted by the American Bar Association and the Insurance Adjusters Association prohibiting such activities. The committee rendered its opinion that representation of claimants before the Industrial Accident Board by nonlawyer insurance adjusters is unauthorized practice of law and prohibited.

The committee's opinion was requested on the question whether the foreclosure of a trust deed under 45-1501 to 45-1515, Idaho Code, constitutes an unauthorized practice of law. The committee rendered its opinion that such foreclosures do constitute the practice of law, and should be handled by licensed attorneys.

One instance of the use of simulated legal process by a collection agency was called to the committee's attention. The offender was contacted by letter, and this matter is pending.

One court case is pending in the District Court of Lewiston, Idaho, in which one M. M. Belknap, a real estate broker, and not a licensed attorney, is charged with drawing a property settlement agreement, an escrow contract and deed, for which charges were made. Mr. James W. Givens of the firm of Blake & Givens, Lewiston, Idaho, is representing the Bar Association and UPL Committee. At last report, the case was at issue and ready for trial. This case is pending.

The present chairman of the Unauthorized Practice Committee was invited to participate in a Symposium on the Unauthorized Practice of Law in Portland, Oregon, on May 24, as a part of the regional meeting of the American Bar Association. Since previous commitments prevented the chairman's attendance, Commissioner J. Blaine Anderson, formerly a member and chairman of the Unauthorized Practice Committee, kindly consented to substitute, and did participate in the meeting as the representative of the Bar and Unauthorized Practice Committee of Idaho.

Respectfully submitted,
UNAUTHORIZED PRACTICE
COMMITTEE OF THE
IDAHO STATE BAR
Sherman F. Furey, Jr.
Salmon, Idaho
Chairman

William T. Goodman
Rupert, Idaho

Thomas W. Feeney
Lewiston, Idaho

Professional Ethics Committee Report

The Committee on Professional Ethics makes this report:

Since July, 1959, 135 pieces of correspondence have been received or dispatched relating to our work. Formal opinions have been written on 7 questions which have been or presumably will be published or summarized in the Advocate. Several questions covered by existing opinions have been the subject of informal correspondence. Other questions are presently being researched.

Inquiries have been received from the Ethics Committees of the Bar Association

tions of other states and the opinions of some of their committees have been sent to us. They are filed with our State Secretary.

Among other topics, the Committee has noticed its observations on these topics:

A. That a resident Attorney is not chargeable with unethical conduct in disbursing insurance proceeds to a widow without first securing payment of costs advanced by an out-of-State lawyer who voluntarily commenced an unproductive suit without first consulting the resident attorney or the client, either about starting such action or discussing reimbursement of costs.

B. It is improper for a judicial officer to solicit the endorsement of attorneys for appointment to another judicial position.

C. It is unethical to contract for a contingent fee in a divorce action.

D. A publicly employed attorney may not properly represent a private client in proceedings to acquire lands for State Highways.

E. It is not proper for a plaintiff's attorney to question the officers or directors of a defendant corporation about the subject matter of a lawsuit without consent of the corporation's counsel, except as permitted under the Rules of Civil Procedure.

F. It is not improper for a Court-appointed attorney to have an indigent client initially plead not guilty to delay punishment. Although the client may in the interim work, and possibly remove the indigency, the lawyer is never-the-less entitled to a reasonable fee from the Court upon the client's later plea of guilty.

G. Non-partner lawyers who share offices may not ethically represent clients whose interests conflict with one another.

H. It is not improper for a judicial officer of any city, county or state court to also serve as attorney in public employment.

I. A prosecuting attorney or deputy may represent a private plaintiff in a civil action to recover goods stolen in another county provided the prosecuting attorney's office was not involved in a criminal action based upon the same facts.

J. Professional cards and notices, even in isolated communities where the custom has been contrary, must be limited to brief, dignified announcements of the opening, removal or reorganization of a law office.

We feel that a lively consciousness in achieving and maintaining elevated ethical standards and voluntary conformity could do much to build confidence in lawyers and the orderly processes they should espouse.

Respectfully submitted,

COMMITTEE ON PROFESSIONAL ETHICS

By:

Merrill K. Gee, Chairman

Paul Eimers

Calvin Dworshak

Wm. J. Jones

Legislative Committee Report

Your committee has had under consideration the following matters and have made suggested resolutions therefor to the Resolutions Committee.

Administrative Procedures Act

The Idaho State Bar Association has had a specific committee prepare an Administrative Procedures Act. Copies of this Act were not available for submission to all members of the Legislative Committee. However, the chairman has examined it and commends the personnel that prepared it. Your Legislative Committee feels that in view of the vast amount of practice that has developed before quasi-judicial tribunals who, for the most part, operate without rules or procedure, which makes the orderly administration of justice difficult, an Administrative Procedures Act is a must. We have proposed a resolution to that effect.

We note in the draft of the Administrative Procedures Act prepared by your special committee, a proposal contained in Section 2 (1) that each agency may state the qualifications of persons for practice before the agency. It seems to us that this should be more detailed in that this practice constitutes the practice of law in most instances, and we do not believe that any agency should be permitted to qualify any person not a licensed attorney to practice law before it. We recommend that this be given careful study by the appropriate committee of the Idaho State Bar.

Legal and Judicial Holidays

There are two or three discrepancies between the statute determining non-judicial days and the statute defining legal holidays, which have come to the attention of some of the members of the committee. It is recommended that the statute be correlated so that legal holidays are non-judicial days. This would not necessarily make each holiday proclaimed by the governor or president a holiday, although that might be agreed.

Foreign Corporations—Statutory Agent

Your committee recommends that the statutes of the State of Idaho relating to the designation of statutory agents by qualified foreign corporations be amended to provide that the Secretary of State of Idaho be automatically designated agent for the service of process on such corporations. It has been presented to your committee that the present arrangement of designating all sorts of people as statutory agent has caused attorneys outside of Boise a great deal of trouble. The committee has also been informed of occasions on which the person designated as statutory agent has not maintained files nor had information, usually some years after such designation, as to the place for the direction of process, which has been a burden upon the foreign corporation, without real fault upon the agent. The proposal would make the foreign corporation law similar except by designation of the Secretary of State for service, to the statutes relating to service of process upon foreign insurance companies, which seems to be quite satisfactory.

Unlawful Practice—Real Estate Brokers

It has been suggested to your committee, and your committee proposes, that the law relative to the revocation and suspension of license of real estate brokers be amended in such manner to provide revocation or suspension of a real estate broker's license who is found guilty of unlawful practice of law. In this connection, it is further proposed that a special committee of the Idaho State Bar be formed to work out a detailed definition to be incorporated by statute or such other appropriate

means, of the practice of law, without regard to monetary consideration for such practice.

Attachments and Garnishments

Your Committee further proposes that a study be made by appropriate committee of the statutes relating to attachments and garnishments to make the procedure therefor more efficient. This problem seems to exist in a number of localities and have been experienced by numerous members of the Bar. Since the statutes are quite confused and any amendments should be adopted only after careful study and consideration of the entire procedure, it is recommended that a special committee should be appointed for this purpose.

Miscellaneous

Other suggestions which have been made to your committee upon which no action has been taken is an amendment of the bulk sales statute, which language appears to be ambiguous, and legislation relating to the amending of the fee schedules of the justice courts in view of the fact that justices of the peace are now paid salaries and do not receive compensation through fees.

Your committee had under study a proposal that the Bar Association sponsor constitutional amendment to make the office of Attorney General appointive rather than elective. I can report that a majority of the committee approved this proposal; however, it was not unanimous and therefor the proposal is not being made on behalf of the committee.

It was further suggested that title insurance companies be placed under the jurisdiction of the commissioner of insurance, upon which the committee appeared to be in agreement. However, this matter is being considered and the proposal will probably be provided for in the extensive revision of the insurance code of the State of Idaho.

Your committee has not drafted specific legislation on the matters which it has had under consideration, in view of the impossibility of joint action and the further situation that such legislation should not be drafted until approved by the Association. As a conclusion, it is suggested that the Idaho State Bar Association take a leaf from the book of the state insurance agents, who managed to obtain an appropriation of \$25,000.00 for the revision of the insurance code of the State of Idaho, which revision is comprehensive. It is not suggested that this type of revision needs be accomplished in very many areas, but we do believe that in too many instances, piecemeal amendments of single statutes which are a part of a body of law have created confusion and ambiguity. It is suggested that a better procedure would be a study by the Bar Association of entire divisions of law relating to various subjects, and if it is determined by reason of previous amendments or for some other reason, that such law need be clarified or amended, that such amendments be made by revision of the whole body of the law rather than by piecemeal correction. This requires a great deal more work and study, and we believe that in a proper case, with good cause shown, the legislature can be convinced to appropriate adequate sums of money for the employment of attorneys, who should, in most instances, be Idaho attorneys, to accomplish this purpose.

Respectfully submitted in behalf of the committee

Willis C. Moffat, Chairman

World Peace Through Law Committee Report

The Committee on World Peace Through Law of the Idaho State Bar is pleased to submit the following report covering its activities during the past year:

The committee has cooperated with the Committee on World Peace Through Law of the American Bar Association, under the chairmanship of Charles S. Ryne. Broadly speaking, our common objective is the extension of the Rule of Law as a means of settling international disputes and achieving world peace.

The ABA Committee has enlisted the aid of our committee in an endeavor to establish liaison between lawyers in the United States and lawyers in other parts of the world. Our committee in Idaho has been charged with the responsibility of contacting members of the legal profession in Haiti and the Philippines. Correspondence with lawyers in those countries has been initiated for the purpose of exchanging information relating to the legal systems of our respective countries. A comprehensive report, describing the nature of the legal profession, the system of law and the system of legal education in those countries will ultimately be prepared by this committee and furnished to the ABA Committee.

One of our principal objectives is to make members of our profession aware of the responsibility of lawyers to furnish the leadership needed to help achieve world peace and security by the substitution of the Rule of Law for the Rule of Force in the settlement of international disputes. To help achieve this objective we have recommended that a Committee on World Peace Through Law be appointed in each of the local bar associations. We are advised that steps have been taken by the Board of Commissioners and by the presidents of the local bar associations to implement this recommendation.

The committee met in Boise on March 19, 1960, to consider a number of matters requiring committee action. On this occasion, we also met briefly with the Board of Commissioners to discuss plans for a program at the annual meeting to be devoted to some aspect of world peace through law. Accordingly, it is anticipated that a debate will be scheduled on that occasion on the question of the advisability of repealing the so-called Connally Reservation which provides some limitations to the jurisdiction of the international court of justice over matters in which the United States is involved.

To assist Idaho lawyers to gain a better understanding of the problem and of the challenge it presents to the legal profession, the committee arranged to have information relating to this question furnished to each of the local bar associations.

Respectfully submitted,

Orval Hansen, Chairman
Carl P. Burke
Lloyd J. Walker
Scott W. Reed

Inferior Courts Reform Committee Report (2nd Amended)

To the President and membership of the Idaho State Bar:

The Idaho State Bar Committee on Reform of Inferior Courts herewith presents its Second Amended Report which supplements and amends the original report submitted in 1958 which was first amended in 1959.

The Committee met twice during the year in an attempt to comply with the

resolution of the State Bar adopted in July, 1959, the essence of which was for the Committee to draft proposed legislation in conformance with the Committee's recommendations of last year. The Committee was able to perform its function in part with the aid of drafts of standard legislation which were available. However, Committee investigation revealed that it will undoubtedly take more time to revise the probate code than committee members can afford to spend. In addition, the committee again, after much discussion and deliberation, decided to revise its basic recommendations.

The Committee now recommends the following:

FIRST: Your Committee recommends that Justice of the Peace courts be made courts of record but otherwise remain as presently constituted (except as herein-after provided with reference to municipal courts), with no change in jurisdiction, and that the name of this court be changed to the "County Court," and

That all jurisdiction of the probate court be transferred to the district courts, adding additional district judges where necessary, and that probate courts be abolished.

EXPLANATION: Last year the Committee recommended that the jurisdiction of the probate courts be increased; that the name of the probate court be changed to "County Court" and that Justice of the Peace courts eventually be abolished. Our latest recommendation is not such an extreme departure from our original views as may appear at first glance. Our latest recommendation would provide a county court with as many judges as the county desired to provide. The reasons for the Committee's latest recommendations are as follows:

1. The following jurisdiction of the probate courts should be transferred to district courts.

A. Probate of estates of decedents.

REASONS:

(1) Where the estate is uncontested, probate procedures are essentially clerical in nature and could be handled routinely as a clerical matter by the clerks of the district court. This is the practice in many of our neighboring states. It is fast and efficient, and saves lawyers and clients time, money and grief to the bereaved who must appear in the formal proceedings conducted in some probate courts. Formal proceedings in uncontested cases usually serve no important purpose.

(2) Where the estate is contested, the matters should be heard and tried by the best qualified trial judges our system of jurisprudence offers. Usually, the sums of money involved are large. The questions of law are ordinarily complicated. Usually, a contested case will be appealed from the probate court to the district court irrespective of the outcome. Such appeals are ordinarily trial de novo. There seems to be no logical reason why there must be two trials in a contested case. The only other way to solve the problem would be to require that probate judges be law-trained and that they have court reporters, and there are not sufficient lawyers or court reporters available to provide one for each county.

- B. Family law matters, including guardianships, commitment of mentally ill, child abandonment and neglect, juvenile delinquency and adoptions.

REASONS:

(1) There are no matters handled in the entire field of jurisprudence

that are more important than family law matters. It is clear without exaggeration that many of these matters are matters of life or death. They should be handled by the best qualified trial judges our system of jurisprudence has to offer.

(2) Family law matters are one of the reasons our system of jurisprudence is under fire from social workers, Parent-Teacher Associations, mental health groups and others interested in social legislation who argue that too many of our probate judges are not qualified to handle such matters. Accordingly, there is increasing pressure to transfer traditionally judicial functions in family law matters to administrative agencies of the state. The Youth Rehabilitation Act is one example of where this is an accomplished fact. Currently, there is much pressure building in the field of adoptions. Since Idaho is known as an "easy divorce" state, it can be expected that those interested in social legislation will soon become interested in divorce because of the relationship of divorces to children's problems. Thus, it is important that the legal profession solve these problems before they are solved for us under circumstances that may not strictly abide by the doctrine of separation of powers.

(3) There are many practical problems in the fields, such as juvenile delinquency and mental health that can be better solved on a district basis than a county basis. Examples are detention facilities for juvenile delinquents and court investigation and probation services for juveniles and dependent and neglected children. Greater efficiency and economy would result if such court services were on a district basis rather than a county basis.

C. Civil jurisdiction over \$300.00 should be transferred to district court.

REASONS:

(1) Originally it was the Committee's recommendation that the jurisdictional amount in probate courts be increased, and that trial de novo on appeal to district court be eliminated. This would make it necessary for probate courts to have law-trained judges and court reporters in every probate court in the state. This appears to be absolutely impractical because of the lack of lawyers and even greater lack of court reporters. To leave trial de novo in the law and increase the jurisdictional amount in probate court appeared pointless to the Committee because the trial in probate court would be nothing more than a pretrial procedure to a trial in district court. The Committee felt that the decision in probate court trials would invariably be appealed whenever the judgment amounted to \$1,000.00 or more. Default matters might be exceptions, but it appeared to the Committee that the district judge could process default matters without undue time consumption. Since a vast majority of actions brought in probate court go to judgment by default anyway, it was the opinion of the Committee, after careful study, that district judges would not have to expend a burdensome amount of time on such matters. However, it might well be necessary to increase the clerical staffs in some district courts.

D. Criminal jurisdiction should remain in the Justice of the Peace (County Courts) and in the district courts as at present.

REASONS:

(1) The Committee thought that any former difficulties in this area

might well be solved by the new legislation concerning Justice of the Peace Courts. It was felt that the operation under the new legislation should be observed for a time before any further recommendations are made.

II. It was reported to the Committee that difficulties had been encountered in the legislature in obtaining adequate salary increases for district judges. One of the important reasons for these difficulties was the allegation that some district judges did not have sufficient work now to keep them occupied. It was the conclusion of the Committee that the transfer of substantial additional jurisdiction to the district courts would eliminate such objections to proposed salary increases. However, it is clear that the transfer of such jurisdiction to the district court would necessitate the addition of judges in some districts.

III. If Justice of the Peace courts remain as presently constituted, such courts may be developed into county courts by providing full-time or part-time judges at salaries set without reference to any minimums or maximums established by legislative enactment. Thus, counties may now procure law-trained judges, if available, and pay them well. If no law-trained judges are available, counties can still procure the best qualified lay persons available in accordance with what they are willing to pay. The abolishing of the probate court will release county money which can be paid to the county judge and for his staff and facilities. It would appear that the influence of local bar associations could strengthen courts such as these and provide courts of which the public and the bar could be justly proud.

SECOND: Your Committee recommends that the jurisdiction of municipal courts be eventually transferred to Justice of the Peace (or county courts) and that municipal courts be eliminated.

REASONS:

Last year we recommended that municipal courts become a part of the integrated judiciary. This year's recommendation goes further. The reason for recommendation is that the consolidation of jurisdiction of municipal courts with the county court would create a uniform traffic court organization, eliminate duplication of jurisdiction, provide economy of operation, justify increased judge's salaries, and provide additional work for judges so that there would be more full-time judges and fewer part-time judges.

THIRD: Your Committee recommends that the Idaho State Bar Association disband its Committee on the Reform of Inferior Courts and that a new committee be appointed called a "Reform of Courts Committee," and that such new committee be instructed to continue in the functions of the Inferior Courts Committee, and that in addition it consider reforms that may be appropriate to all state courts and tribunals in the State of Idaho to the end that the supervision and control of the Supreme Court over all other state courts in the state may be strengthened.

REASONS:

(1) It is the experience of the Committee that no proper reform of inferior courts can be effected without considering changes which would be appropriate for other courts. Your committee's studies have revealed that any other approach begs all the questions. A limited study provides nothing but more complications. See *Court Reorganizations Success in Connecticut*, Charles W. Petingill, 46 ABA Journal 58 (Jan. 1960), and *Judicial Reform*

is *No Sport for the Short Winded*, Harry D. Nims, ABA Journal 159 (Feb., 1960).

FOURTH: Your Committee recommends that the Idaho State Legislature be requested to appropriate sufficient money (1) to hire lawyers to draft the vast amount of legislation necessary to accomplish the court reforms recommended by this report as the same may be subsequently amended; (2) to employ persons for research into court business volume, the preparation of budgets, and the analysis of savings that would be created by the court reforms herein recommended.

REASONS:

Investigations performed by members of the Committee clearly reveal that a proper reform of courts is no easy job. Court reforms recommended herein will take considerable time and effort to place in legislative form. The Committee has no idea of how much time or effort, but estimates that the necessary drafting will take at least one or two years. Statistical studies could probably be completed within one or two years. These things should be accomplished by people able to work on the matter full time.

FIFTH: Your Committee recommends that a resolution be offered at the next session of the legislature for amendments of the constitution of the State of Idaho so that adequate judicial reforms may be made by legislation in 1963. Marked Exhibit "A" and attached hereto is a draft of a proposed amendment to Article V, Section 2 of the Idaho State Constitution. Your Committee recommends the adoption of this proposed amendment. In addition, your Committee recommends the repeal of Section 14, (Special Courts in Cities and Towns), 21 (Jurisdiction of Probate Courts) and 22 (Jurisdiction of Justice of the Peace) of Article V of the Constitution of the State of Idaho.

REASONS:

The present constitution inhibits the reforms recommended by the Committee and in fact inhibits any substantial reform that may be proposed in any direction. The proposed amendment, patterned after the Hawaii and Alaska constitutions, would allow by legislation, such reforms of courts inferior to the Supreme Court as might be desirable while at the same time preserving the District Courts. For example, if we had the proposed constitutional amendment, the legislature could at some future time establish an Appellate Court between district courts and the Supreme Court. It could establish any other inferior court that might be necessary or desirable. Presently, Justice of the Peace Courts, Probate Courts, and Municipal Courts are, in a sense, constitutional courts and nothing substantial can be done until this situation has been changed. This is especially true in reference to Probate Courts. Jurisdiction of Probate Courts (excepting most of the family law) cannot be transferred to district courts until the constitution is amended.

SIXTH: Your Committee recommends that the District Bar Associations study and report their recommendations upon the standard family court act which would place all family court jurisdiction in the district court, a draft of which is marked Exhibit "B" and is hereto attached, with the idea that some such legislation might be recommended to the legislature in 1963. The attached draft has been amended from the standard act as indicated on the explanation sheet thereon.

REASONS:

This is consistent with the recommendations of last year that some courts

have all family law jurisdiction. The Committee still adheres to the recommendation but now believes that the proper court for such jurisdiction is the district court. The standard family court act was prepared by a committee of the National Council of Juvenile Court Judges, the National Probation and Parole Association, and the U.S. Children's Bureau. Copies may be obtained for a small fee by writing the National Parole and Probation Association, 1790 Broadway, New York 19, N.Y. For the text of the act, including articles by Roscoe Pound and others, write for the NPPA Journal, issue of April, 1959. This standard act keeps family law jurisdiction within the court system paying attention to the doctrine of separation of powers. It covers divorce and separation and all other family law. It merits considerable unbiased study.

SEVENTH: The Committee recommends that the various district bar associations over the state forthwith study the proposed "Idaho Rules in Traffic" cases, marked Exhibit "C" and attached hereto, and report their recommendations upon whether or not they should be adopted to the Commissioners of the Idaho State Bar for referral to the Idaho State Supreme Court for action as they see fit.

REASONS:

The Committee believes that the Idaho State Supreme Court may adopt the rules for traffic cases under their rule-making power. This would be consistent with our recommendation of last year. The proposed rules were adapted from *Model Rules Governing Procedure in Traffic Cases* drafted by the National Conference of Commissioners on Uniform State Laws, approved by such conference in July, 1957. Copies of the uniform draft may be obtained by writing the National Conference of Commissioners on Uniform State Laws, 1155 East 60th Street, Chicago 37, Illinois. As reported last year, traffic procedure in the State of Idaho creates much ill toward the legal system. The present procedure builds disrespect for all law and impairs any program for traffic safety on the highways. The model rules attached are beautifully drafted and if followed will eliminate abuses.

The Committee has drafted appropriate resolutions consistent with this report. They are included herewith.

Respectfully submitted,
W. E. Smith, Chairman

American Citizenship Committee Report

The American Citizenship Committee of the Idaho State Bar, during the past year, has engaged in several projects which this Committee feels have been of importance in public relations, particularly to the Idaho State Bar and the practicing lawyers within the State of Idaho. Those projects are as follows:

1. LAW DAY, U.S.A.—The American Citizenship Committee of the Idaho State Bar Association in January, 1960, distributed to the presidents of the district bar associations within the State of Idaho, program material prepared by the Idaho Bar Association as well as the Information and Program Manual for Law Day, U.S.A., published by the American Bar Association; which publication contained material for the conduct of the district programs on Law Day, U.S.A., as well as explanation of the objects to be obtained by this program. All of the district bar associations presented Law Day, U.S.A. programs and the lawyers participated

therein as well. The number of programs presented was greater than has ever been accomplished in the past.

There was no state-wide program due to the fact that upon discussing this program with the presidents of the various district bar associations, it was felt the program could be best presented by allowing each district bar association to design and implement the program that best suited that particular area and it is the feeling of the Committee that this policy should be followed in the future with perhaps the State Bar Association providing a prize for the best high school essay on a particular topic chosen for the Law Day, U.S.A. program. Also, each district bar association that desires, could obtain entries from their area to be submitted under this program.

2. The American Citizenship Committee of the Idaho State Bar Association, in conjunction with the American Legion of the State of Idaho prepared a booklet for the use of the American Legion and its Boys' State program, outlining the various offices, commissions and boards that comprise the executive branch of the government of the State of Idaho and a detailed explanation of the organization and functions of the judiciary of the State of Idaho. This pamphlet is being reproduced by the American Legion and will be distributed to all participants in the Boys' State program this year and each succeeding year.

Further, the American Citizenship Committee of the Idaho State Bar Association agreed to obtain lawyers to teach various class sections of the Boys' State program during the summer of 1960, in the basic principles of law, including criminal and civil law and the functions of lawyers and the judiciary within the framework of our legal structure.

It was also recommended by the American Citizenship Committee of the Idaho State Bar that the Idaho State Bar Association cause to be printed and presented to these boys who successfully pass the examinations, a certificate acknowledging the completion of the Boys' State law course and admitting these boys to the Bar Association of the Idaho Boys' State.

It is the opinion of the American Citizenship Committee of the Idaho State Bar that this work with the American Legion, relating to the Boys' State program, should be continued in future years as it affords the Bar Association an outstanding opportunity to inculcate in the outstanding young men of the Boys' State program, an understanding of the function of the legal system in Idaho and the part played in this system by the judges and lawyers of the State of Idaho.

Respectfully submitted,

Chas. F. McDevitt, Chairman
Sidney E. Smith
J. F. Bates

Administrative Procedure Act Committee Report

Your committee begs leave to report as follows:

That it has drafted a bill for submission to the 1961 Idaho Legislature to provide for administrative procedure for administrative agencies of the state and lodged same with Mr. Miller, Secretary.

It has also recommended the interest and support of the Bar in an effort to have enacted S.2374 H.R. 10657, a bill to establish standards of Conduct for Agency hearings under the Federal law, as recommended by John D. Randall, President of A.B.A.

Respectfully submitted,
Alfred C. Cordon, Chairman

Economics of Law Practice Committee Report

During the past year, your Committee has reviewed the State Bar advisory fee schedule with respect to possible amendments and clarifications thereof.

With respect to establishing an advisory fee for foreclosure of trust deeds, your Committee recommended and furnished resolutions providing an advisory minimum fee for this purpose. Certain District Bar Associations have approved and passed this resolution. It was felt by your Committee that foreclosure of trust deeds was properly legal business and should be considered as such by all counties. An attempt was made to arrive at a fair fee for the performance of this type of legal work.

Your Committee will have a resolution with respect to amending the fee schedule in certain respects regarding certain clarifications and additions thereto.

The Committee feels that the schedule should be subject to constant scrutiny and amendment in such manner as would make it more complete and useful to the members of the Bar.

Respectfully submitted,
Glenn A. Coughlan,
Chairman and members of the Committee

INDEX

— A —

ADDRESSES

Conway, Carl F., Osage, Iowa (President, The Iowa State Bar Association) "Legal Opportunities in Outer Space."	19
Holman, Frank E., Seattle, Washington (Past President of the American Bar Association)—debate with Mr. Jenner, "Should the Connally Reservation be repealed by the Congress of the United States?"	10
Jenner, Albert E., Jr., Chicago, Illinois (Past President, Illinois State Bar Association)—debate with Mr. Holman, "Should the Connally Reservation be Repealed by the Congress of the United States?"	10
McQuade, The Honorable Henry F., Boise (Justice Supreme Court of Idaho)—"Insight Into Supreme Court Procedure."	10
Smylie, The Honorable Robert E., Boise (Governor of the State of Idaho) — remarks	7-10
vom Baur, F. Trowbridge, Washington, D.C. (Chairman, A.B.A. Committee on Unauthorized Practice of Law)—"Unauthorized Practice, a Strong Bar, and the Public Interest."	12-19
ADMINISTRATIVE PROCEDURE ACT	
Report of Committee on	41
Resolution proposing	69
ADVISORY FEE SCHEDULE	
Resolution (No. 2) amending	24
ADVOCATE, THE	
Resolutions printed in, resolution re	46
Subscriptions to, resolution re	23
ANDERSON, J. BLAINE	
Introduction of, as new President of Idaho State Bar	49
Resolution of appreciation to	47
ANDERSON, L. H.	
Remarks	44
ANDERSON, W. J. (Joe)	
Report and resolutions of Resolutions Committee	23-48
Report and resolutions of Resolutions Committee	50-69
APPENDIX	
ASSAULT, AGGRAVATED, STUDY	21
ATTORNEYS	
By District Bar Associations, numbers	53
By Divisions, numbers	51
Deaths since 1959	53
Number of, in Idaho	21
State and counties, compensation schedule	

— B —

BAR EXAMINATIONS

Results	54
BELLWOOD, SHERMAN J.	
Presiding	5-50
Report as President of Idaho State Bar	50
Resolution of appreciation to	47
BAKES, BOB	
Remarks	26
BATES, JAY	
Resolutions Committee, member of	23
BLAKE, WYNNE	
Chairman, Canvassing Committee	10
BLOEM, JOHN	
Resolutions Committee, member of	23
BOWLER, BRUCE	
Remarks	39
BRESHEARS, RALPH	
Remarks	34-37-8
Resolution re Connally Reservation	37
BUDGE, HAMER	
Telegram expressing regrets	11

— C —

CANVASSING COMMITTEE

Appointment of	10
Report of, re election of Commissioner	11
CHALFANT, FRANK E., JR.	
Remarks	32-3
CHECK LAWS, STUDY	
.....	21
COMMISSIONERS, STATE BAR	
Coughlan, Glenn A.	
Acceptance remarks	19
Election of, as Commissioner	11
Resolution of appreciation to	47
COMMITTEES	
Administrative Procedure Act Committee, report of	69
American Citizenship Committee, report of	67
Canvassing Committee	
Appointment of	10
Report of, re election of Commissioners	11
Continuing Legal Education Committee, report of	55
Economics of Law Practice Committee, report of	69

Inferior Courts Reform Committee, report of	62
Legislative Committee, report of	60
Professional Ethics Committee, report of	58
Public Relations Committee, report of	22
Reform of Courts Committee, resolution providing for	36
Rules of Civil Procedure, Committee, report of	22
Unauthorized Practice of Law Committee, report of	56
World Peace Through Law Committee, report of	62
CONNALLY RESERVATION	
Holman-Jenner debate on repeal of	10
Remarks on resolutions re	37-41
Resolution re	36-7
Substitute resolution re	37
Adoption of	41
CONWAY, CARL F., address	19
COUGHLAN, GLENN A.	
Election of, as commissioner	11
Remarks of acceptance	19
CORDON, ALFRED C.	
Administrative Procedure Act Committee report	69
COURTS, REFORM OF	
Appropriation by Legislature for study	
Resolution (No. 6) re	28
Substitute resolutions, adopted	34
Constitutional amendments, resolution (No. 5) re	28
Inferior Courts Reform Committee	
Dissolution of, resolution (No. 8) re	36
Report of	62
Reform of Courts Committee, appointment, resolution	
(No. 9) re	36
Standard Family Court Act, study, resolution	
(No. 7) re	35
Uniform Traffic Rules, study, resolution (No. 8) re	35
CREASON, CHARLES	
Resolution Committee, member of	23
CRIMINAL CODE REVISION	21
CUNNINGHAM, JAMES	
Introduction of Carl Conway	19
- D -	
DALY, JOHN	
Remarks	46
DEATHS, ATTORNEYS, SINCE 1959	54
DISCIPLINARY PROCEEDINGS	54
DISTRICT BAR ASSOCIATIONS	
Dues, resolution (No. 1) re	23-4

Membership, resolutions (No. 1) re	23-4
Membership, numbers	53
Votes, numbers	53
DISTRICT COURT RULES	
	20
- E -	
EBERLE, TED	
Remarks	43
ELECTION OF COMMISSIONERS	
Acceptance remarks by Mr. Coughlan	19
Report of Canvassing Committee	11
ELLWAY, REV. W. D.	
Invocation	7
Remarks	5-7
- F -	
FEE SCHEDULE, ADVISORY	
Resolution (No. 2) amending	24
FEENEY, THOMAS	
Member, Resolutions Committee	23
FURCHNER, WILLIAM	
Canvassing Committee, member of	10
Canvassing Committee, report of	11
- G -	
GIGRAY, WILLIAM	
Remarks	30
GOVERNOR ROBERT E. SMYLIE	
Address	7-10
- H -	
HANSEN, ORVAL	
Introduction of Mr. Holman and Mr. Jenner	10
Remarks	32
HAWLEY, JACK	
Parliamentarian, introduction as	10
Resolution of appreciation to THE ADVOCATE Staff	48
HOLMAN, FRANK E. (see "Addresses," this Index)	
- I -	
IMHOFF, JOE	
Remarks	39
Resolutions Committee, member of	23
INFERIOR COURTS (see "Courts, Reform of," this Index)	
INVOCATION	7

- J -

JENNER, ALBERT E., JR. (see "Addresses," this Index)	
JOHNSON, CHARLES	
Remarks	34
Resolutions Committee, member of	23
JUDGES, ADDITIONAL	
Governor's remarks re	8
Resolution (No. 3) proposing	26
JUDICIAL CONFERENCE REPORT	20
JUDICIAL SALARIES INCREASE	
Governor's remarks re	8
Resolution (No. 4) proposing	27
JURY INSTRUCTIONS, UNIFORM	20

- L -

LARSON, BERT	
Resolution of appreciation to Secretary	50
LOCAL BAR ASSOCIATIONS (see "District Bar Associations," this Index)	
LYON, C. WALKER	
Resolutions Committee, member of	23

- M -

McFADDEN, HON. JOSEPH	
Remarks of appreciation	19
McINTYRE, CAL	
Canvassing Committee, member of	10
McQUADE, HON. HENRY F. (see "Addresses," this Index)	
MERRILL, A. L.	
Remarks	25-48
MILLER, DEAN	
Resolutions Committee, member of	23
MILLER, TOM	
Public Relations Committee report	22
Remarks	22
Secretary's Report	51
MORGAN, DALE	
Introduction of Mr. vom Baur	11
Remarks	25-31-42

- N -

NEGLIGENT HOMICIDE, STUDY	21
---------------------------------	----

- P -

PETERSON, PHILIP E.	
Remarks	38
PRESIDENT'S REPORT	50
PROSECUTING ATTORNEYS ASSOCIATION REPORT	21
PROSECUTING ATTORNEYS, TERM, STUDY	21

- R -

RANQUIST, HAROLD	
Remarks	27-37-40
REED, SCOT	
Remarks	34-38
RESOLUTIONS	
Additional judgeships	26
Administrative Procedure Act	41
Advisory Fee Schedule, amendment of	24
ADVOCATE, THE	
Appreciation	48
Resolutions to be printed in	46
Subscription to, rule providing for	23
Appreciation to:	
Commissioners	47
Montana and Utah State Bar Presidents	47
Publishing Companies, for prizes	47
Secretary	50
Sun Valley	47
THE ADVOCATE Staff	48
Attachments and garnishments	41
Connally Reservation	
Resolution	36
Substitute resolution, adopted	37
Constitutional amendments, court reform	28
Court reform, study	28-34
District Bar Associations—membership, dues	23
Fee Schedule, amendment to	24
Foreign corporations, service of process on Secretary of State	43
Inferior Courts, reform (see "Court Reform," supra.)	
Judgeships, additional	26
Judicial salaries increase	27
Legal holidays	42
Legislative counsel	45
Local Bar Associations (see "District Bar Associations," supra)	
Pacific Digest	45

IDAHO STATE BAR PROCEEDINGS—1960

76

Reform of Courts	28-34-35
Reform of Courts Committee, appointment of	36
Standard Family Court Act	35
Resolutions to be printed in THE ADVOCATE	46
Rules in Traffic Cases	35
RODEN, BILL	
Report of Prosecuting Attorney Association	21
— S —	
SMITH, W. E.	
Remarks	29-30-31-33
SMYLIE, HON. ROBERT E. (see "Addresses," this Index)	
STATE BAR, IDAHO	
Bar examination results	54
Committees (see "Committees," this Index)	
Financial reports	52
Membership reports	53
Secretary's report	51
President's report	50
— V —	
VENUE, CHANGE OF	20
VOM BAUR, F. TROWBRIDGE (see "Addresses," this Index)	
— W —	
WARE, MARCUS J.	
Report of Supreme Court Committee on Idaho Rules of	
Civil Procedure	22
Resolution of appreciation to	47
WILSON, PETER	
Resolutions Committee, member of	23
— Y —	
YOUNG, HON. MERLIN S.	
Remarks	40
Report of Judicial Conference	20