Proceedings

of the

Idaho State Bar

VOLUME XXXV, 1961

Thirty-Fifth Annual Meeting

SUN VALLEY, IDAHO

July 13-14-15 1961

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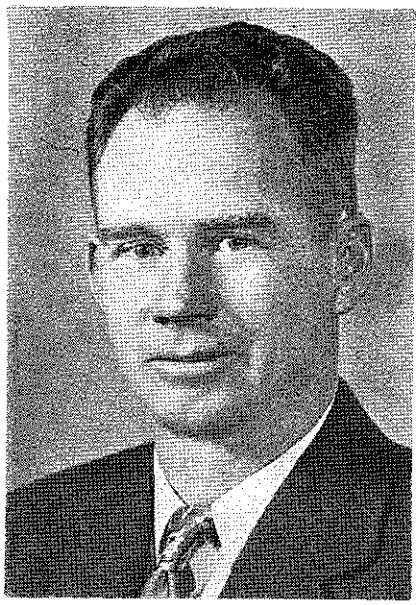
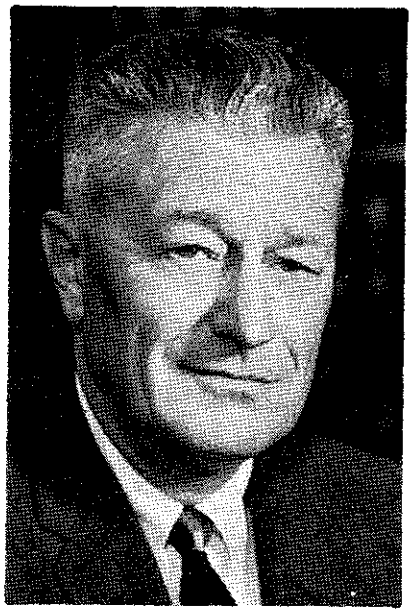
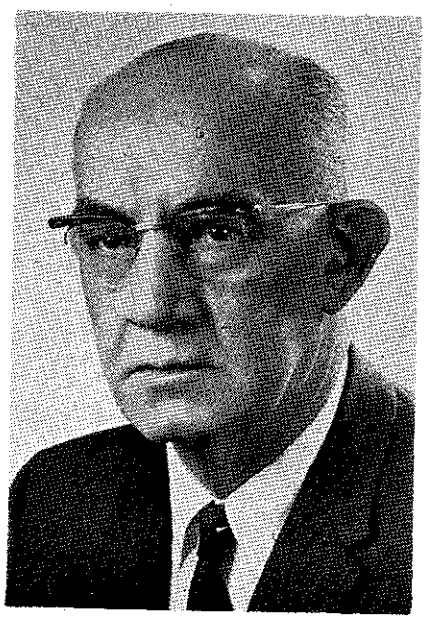
SPEAKERS



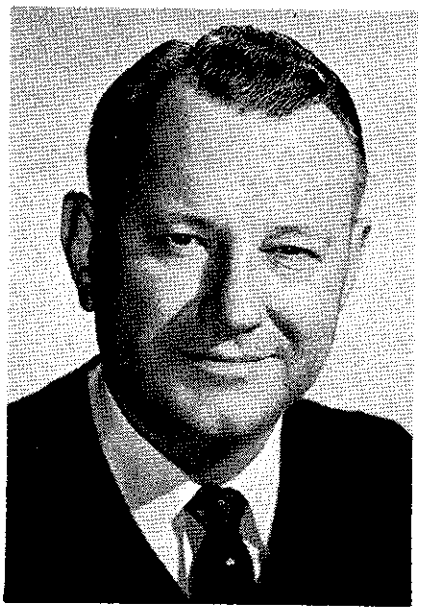
George M. Bell
Moscow



Grant B. Cooper
Los Angeles



Hon. Stanley M. Doyle
Polson, Montana



Hon. Roger Alton Pfaff
Los Angeles

Sun Valley, Idaho
Thursday, July 13, 1961, 2:00 p.m.

PRESIDENT J. BLAINE ANDERSON: The 1961 annual meeting of the Idaho State Bar will please come to order. At this time I will call upon Reverend R. J. Kennedy of the Community Church of Hailey to deliver the invocation. Reverend Kennedy.

REV. R. J. KENNEDY: May we stand please. Our Father, we pause this afternoon to thank Thee for the concepts and faith of our founding fathers, who by their leadership established our nation. We thank Thee, Our Father, that they were godly men, given much to prayer, and we thank Thee for the freedom and liberty that we enjoy in this land, and we thank Thee for these dedicated men and women of the legal profession who work in a diligent, dedicated manner of preserving this freedom of liberties in this country and especially here in Idaho. Bless them, Our Father, in this their annual meeting, grant that these sessions may give them strength, insight and inspiration to each of them as they return to their individual practices; keep us all close to Thee, Our Father, and guide us as individuals and as a nation; and we ask these things in the name of Him who taught that we should know the truth, and that the truth will make us truly great. Amen.

PRESIDENT J. BLAINE ANDERSON: At this time I would like to appoint the Canvassing Committee to canvass the ballots for the election for the Commissioner of the Eastern Division for a three year term. Is Steve Bistline present? (no response); Bill Furchner? (no response); Well, some of you fellows then are going to get the job. John Hepworth, will you act as Chairman, please, of the Canvassing Committee. From the Northern Division—Now, don't duck out on me now. Who is here from the Northern Division?—Melvin Alsager. And, from the Eastern Division, Vern Kidwell. Now you gentlemen may retire at your own leisure to Room 233A, where the ballots are, to receive your instructions from Tom Miller. The Canvassing Committee report will be made promptly at 9:00 in the morning.

At this time it is my pleasure to call upon and to introduce to you, an outstanding attorney of Idaho, our Honorable Governor, Robert E. Smylie—will you favor us with a few remarks.

GOVERNOR ROBERT E. SMYLIE: Mr. President, distinguished Judges and Ladies and Gentlemen, I note that my good friend, Anderson, of course gave me a higher degree of estimate with respect to my ability at the Bar than what was want in the days when I was contending with him occasionally. This perhaps was because of the fact that by now, seven years later, by rules, if they exist at all, probably will have no severance about them.

This has been a very rewarding day for several reasons. I had the very great privilege of meeting with the Judicial Conference this morning; and I think I am going to be obliged to solicit my learned legal counsel for an opinion on the constitutionality of one of their practices, because they were conducting what looks suspicious—about who wanted to go someplace on some conference on trial business, and they didn't deny it was unlawful, but they didn't really think it was unconstitutional.

I haven't got much to say, other than to extend my greetings. I do hope that this session of the Bar will instruct the Commissioners to do some serious, well thought out work about the procedures by which the lawyers of the State make their sentiments known to the Governor in the matter of appointment of Judges from time to time. It's been my privilege now to have appointed a total of fourteen Judges; and I suppose I have accumulated a greater degree of experience than most with the strength and the weaknesses of the existing procedures, and I don't suppose there is anyone in the room who would argue with me when I say that they could be improved upon; and I think that the Bar owes it to itself, to the administration of justice and to the people of the State to devise a machinery which will more adequately, and with less abrasion and less possibility of hurt to professional pride and careers, make it possible for Governors to have the advice and perhaps even the consent of the organized profession. I know that there have been several suggestions made in this regard and certainly no one suggestion will meet with total approval, but I do think that the hour is late enough that the Bar Association had ought to perfect its procedures in this regard and thus obviate some of the rather vastly unbecoming popularity contests which have attended some of these enterprises in the past. I do hope also that the Bar will continue its work in support of a reorganization of our lower courts, an increase and perhaps a sorting out of the jurisdiction of those tribunals to the end that perhaps some of the work that now clogs the calendars of our District Courts can be handled a little closer to home and a little more expeditiously and perhaps a little more economically for litigants. I suppose that the only way that you can really get anybody's attention on some of these problems essential and judicial housekeeping is by continually talking about them, but there are some problems that were highlighted and some of the activities of recent sessions of the Legislature that had ought to indicate to the many students of the political art among you that the Bar itself, the Judicial Conference itself, had ought to move as rapidly as possible toward the point where they can speak with a reasonable degree of unanimity and with a single voice to the solution of some of these important problems.

I would like to touch, too, just briefly, on a note that was sounded by the very excellent invocation spoken by the Reverend Kennedy; let not one of you be for one minute during this conference or all of this fall be unaware of the fact that our nation and our freedom walk through more dangerous times than probably any time in the history of the Republic, barring not even times when we were actually engaged in shooting wars. I think our people are willing to face the issues that are involved in the crisis that attend our affairs abroad. I think Americans, as always, are willing to make the sacrifices that are necessary to maintain the things that we hold dear, and as leaders in our individual communities I think the time has come when we must assist our leadership to become convinced that the people are ready and that they are willing to do what is required, because the American people know in their hearts and in their minds that there are only two ways left and the other road is not for us. Thank you so much.

PRESIDENT J. BLAINE ANDERSON: Thank you, Governor Bob. I think to avoid any undue strain on the voices of our principal speakers this afternoon, that we ought to move down here. I know it's a little less comfortable, but would you please do that, just move down please.

Ladies and Gentlemen, before going into the principal part of our program, it is my pleasure to introduce several distinguished guests. We have with us at this meeting Rex Hanson, President of the Utah State Bar, formerly of Rexburg, Idaho. Rex, will you stand, please. Justice Larry Doyle. I think you gentlemen met Stanley M. Doyle last year when he visited us as President of the Montana Bar Association, he is with us again this year as one of our speakers tomorrow. His topic, as you probably read, is "Judicial Mental Processes." I can assure you that Justice Doyle will carry a message to you of philosophy, but it will also be of good humor. I charge you not to miss it. Justice Doyle, could not be with us this afternoon.

We had also hoped to have with us Ben Berg of Bozeman, Montana. He had not checked in, or had not the last time I checked. He will probably be with us tomorrow and I will make the introduction then.

I am asked by the Honorable Frank Church to express to all of you his best wishes for a successful meeting and his regrets that he could not be in attendance.

We do have, and will have tomorrow with us several distinguished guests, whom I will introduce, our own John A. Carver, Assistant Secretary of the Interior, we are pleased to have accompanying him and be with us James K. Carr the Under Secretary of the Interior, and I understand he is second in command of the Department of the Interior.

Also Mr. Francis J. Berry will be with us, he is Solicitor for the Department of Interior.

At this time I will turn over the meeting to Mr. Blaine Evans of Boise, Idaho.

MR. BLAINE EVANS: I have the privilege today of introducing our next speaker. Now, Jake, a renowned criminal lawyer in San Francisco, California, wrote a book once called "Never Plead Guilty," and in this book he characterized our next speaker as a "prominent Hollywood lawyer," a phrase that is not apt, because our next speaker is a nationally famous, nationally prominent, very able trial counselor. Now, he arrived in California many years ago as a wiper on a steamer with eight dollars in his pocket. Things have progressed. He says he has sixteen dollars now. In any event, although he has tried many famous cases, probably the most famous was the most recent series of Finch trials when Doctor Bernard Finch was tried for murder in the first degree in the State of California, and our speaker, Mr. Grant Cooper, defended Doctor Finch in the first two trials, but not in the third in which he was convicted, due to illness. I think we must draw a distinction between the first two and the last trials. Now, Mr. Cooper tells me that today when he finishes his address, which is entitled "Criminal Lawyer, Saint or Sinner," when he has finished, he would be glad to answer questions. We met Mr. Cooper for the first time yesterday, and I want to say this: in addition to being a great lawyer, he is a fine person. We have enjoyed being with him very much, and it is a real privilege for me to be able to introduce to you at this time; Mr. Grant Cooper of the Los Angeles, California Bar. (NOTE: Mr. Cooper's address has been omitted from these Proceedings. The original transcript is on file at the Idaho State Bar office, Boise.)

PRESIDENT J. BLAINE ANDERSON: Thank you very much, Grant Cooper, I am sure there is not a person here who regrets passing up that swim or that golf game. I think it's unfortunate that many or all of the members of the

general public were not here, and that your remarks cannot be made available to them. I want to thank you for coming, and fitting this into your tight schedule. I wish you could stay the whole three days with us, but we understand, and hope you can join us again sometime.

Before hearing the next speaker we will take a five minute rest break, rather than the usual ten; we are running a little behind schedule. We will resume, according to my clock at three-thirty.

(At this point a short recess was had)

PRESIDENT J. BLAINE ANDERSON: Immediately following the next address we will have the drawings.

Ladies and Gentlemen, at this time I would like to turn the program over to W. F. Merrill, Pocatello, who will introduce our next speaker.

MR. WESLEY F. MERRILL: Thank you, Blaine. I was asked to be the official host for our next speaker, and as host of course it is my pleasure to introduce him to the assembly. Now, all of this was explained to me, but I'm still puzzled, because I was asked just about two minutes before the meeting started; and the reason given was that we didn't tell you sooner because we didn't want you to talk too long. I'm still thinking about that, but if they explain long enough to me I can take a hint. So I will be very brief.

Our speaker was born in Logan, Utah, a few years ago; he went to school in Utah, got his B. S. degree at the Utah State University; he is a graduate of George Washington University, receiving his LL.B. there, and as practical experience he was in the law office with a good friend of mine in Logan, Utah, for in excess of three years. In 1948, our speaker joined the faculty of the University of Idaho, College of Law, where he is now a full professor. His field includes evidence, business associations and municipal law. You see him to my right, and you recognize him, the author of the Hand Book of Evidence for Idaho Lawyers, and is a co-author of the work entitled "Professional Negligence." He knows his subject. And if you have been in a place that I have and had some of his students make objections, you know he knows his subject. His subject is the Uniform Rules of Evidence for the State of Idaho, and it is with a great deal of pleasure I introduce to you, George M. Bell.

MR. GEORGE M. BELL: Mr. President, members of the bar. The Idaho State Bar has a committee on the Uniform Rules of Evidence. Mr. Laurel Elam is Chairman, and Mr. Arthur Smith and I are members of that committee. This committee has not taken a position on whether or not Idaho should adopt the Uniform Rules of Evidence. Consequently you should bear in mind that any remarks I make here today are my own personal views, and they are not the views of the committee, and they should not be considered as a report of the committee. My views might change after the committee has had an opportunity to study this matter further. The purpose of my speech is to present the Uniform Rules of Evidence to you, together with some of the arguments in favor and against the Rules. My purpose is to get you thinking about the Uniform Rules, so that ultimately when the time comes for Idaho to decide whether they should adopt the Uniform Rules of Evidence, you will be prepared to make an intelligent decision.

First I would like to examine the background for the Uniform Rules of Evidence. After years of extensive research and discussion, a committee formed

by the American Law Institute prepared a Model Code of Evidence. This committee was composed of the finest legal talent this nation has to offer. Judges, lawyers and law professors were represented on the committee. In May of 1942, the American Law Institute adopted the work of the committee and promulgated the Model Code of Evidence. The stature of this committee can best be indicated by mentioning such men as Judge Learned Hand, Professor E. M. Morgan of the Harvard Law School, Robert P. Patterson, Under Secretary of War, and last but certainly not least, Mr. Wigmore was the consultant. This committee felt that the common law rules of evidence had become extremely complicated; this is indicated by the fact that Mr. Wigmore took nine volumes to explain the rules of evidence. It certainly shows that it is a difficult, intricate subject. The committe felt that all too often the rules had failed to develop properly because of the stultifying effect of the doctrine of stare decisis, that only too often the rules of evidence have confused issues and confounded juries. The model coders, therefore, wanted to bring the rules of evidence up to date and codify them in a single volume. Instead of adopting a catalog of the rules of evidence with the rules of thumb for each specific problem, the Model Code attempted to draw a series of rules in general terms, covering the larger subdivisions of the subject, leaving the trial judge a large amount of discretion. I personally find the Model Code acceptable, with minor reservations, and I would like to have seen the impossible happen with the Model Code being accepted throughout the United States. However, this did not happen. I think I am being accurate when I say that the Model Code of Evidence was a complete failure. It did not receive the acceptance of the Bar or the Judiciary of the United States. It met strong opposition where it wasn't ignored. After a project has failed, it is sometimes difficult to find exactly the causes for the failure. However, the reasons for the failure of the Model Code can be easily found. In the first place, it was phrased in academic language with various cross references making its use by any but the most painstaking scholar difficult. Secondly, the Model Code left far too much behind, as far as the common law rules of evidence were concerned. It was a radical departure from the common law rules of evidence. These are the two reasons why, in teaching evidence, I ignored the Model Code, and I feel a little guilty about it, as I stand in front of you here today. One of the more radical features of the Model Code was that it made admissible all hearsay declarations by a declarent who was present at the trial and subject to cross-examination, and all hearsay declarations by a declarent who was unavailable as a witness. In substance, the hearsay rule was practically abolished. I need not take the time to point out that the common law had paid homage to the hearsay goddess and our exceptions to the hearsay rule have been reluctantly allowed. Consequently, the Model Code was a shock to the legal profession and to the judiciary when they found our favorite, the hearsay rule, trampled on so thoroughly.

The biggest criticism of the Model Code was that it was academically perfect, but unworkable as a tool for courts and lawyers. However, I am not here today to lay wreaths on the tomb of the unknown Model Code. So I am going to pass on quickly to its successor, the Uniform Rules of Evidence.

When it became patently apparent that the Model Code would not take root in our judicial system, other means for accomplishing the worthwhile objectives of the Model Code were explored. Finally, in August of 1953, the National Conference of Commissioners on Uniform State Laws approved the Uniform Rules

of Evidence. Notice the change between the American Law Institute and Uniform Law Commissioners. Uniform Law Commissioners took over where the other group left off. The Uniform Rules of Evidence were approved after a committee of distinguished lawyers, law professors and jurists prepared a compromise version of the Model Code. The American Bar Association threw its weight behind the Uniform Rules of Evidence in August of 1953. This was a decided boost.

It is my opinion that the Uniform Rules of Evidence do eliminate many of the objections that were found to the Model Code of Evidence. In the first place, the language of the courts has been retained in drafting the various rules. I, myself, find them comparatively easy to read and understand; I think you will find the same.

The Uniform Rules start out by clearing the ground of all incompetencies and privileges and making admissible all evidence from every source, which is relevant, that is, has any logical value tending to prove any material fact. The Rules then set up specific exceptions on matters of privilege and making certain matters inadmissible. In other words, we clear the ground to begin with, and then we set up the areas where we will not have particular items of evidence admissible.

Instead of scuttling the hearsay rule which the Model Code nearly did, the Uniform Rules of Evidence embrace this favorite mistress of the common law and list thirty-one exceptions, all of which have some common law backing.

The next question you would like answered is, what has happened to the Uniform Rules of Evidence in the eight years since their promulgation and acceptance by the American Bar Association? They have been subject to a tremendous amount of discussion and evaluation, but like their unwanted sister, the Model Code of Evidence, no jurisdiction has adopted the Uniform Rules of Evidence in the eight years that they have been in front of the Bar of the United States. I do not feel that the failure of the Uniform Rules of Evidence to be adopted by any jurisdiction should foreclose the question as to whether or not these Rules should be adopted in Idaho. It would seem to me that each state should make a careful appraisal of its own common law Rules of Evidence in comparison with the Uniform Rules and then determine if the administration of justice would be improved in that state by the adoption of the Uniform Rules. I do not have the time and I am sure you wouldn't want me to discuss in detail the Uniform Rules of Evidence as compared to the Idaho law of evidence, but I think I can in a few minutes give you some high lights which will furnish some indication whether or not Uniform Rules of Evidence are desirable for Idaho.

If the Uniform Rules of Evidence were adopted in Idaho, illegally obtained evidence would be admissible. Now this is a radical departure from the rule in Idaho. We have passed through several phases. We are now at the point where illegally obtained evidence is inadmissible. The Uniform Rules would make it admissible. However, the Supreme Court has muddied the waters tremendously since I prepared this talk. We have the case of Mopp v. Ohio, which has just come down, and now illegally obtained evidence is inadmissible under the Constitution of the United States. We have passed through three steps. We would go from our old rule, to the Uniform Rules, to the rule of the Supreme Court of the United States.

Secondly, the Uniform Rules of Evidence abolish the "dead man statute." The incompetency set up by the "dead man statute," I believe, has not achieved its purpose. It would seem that this is one rule of evidence that could be safely discarded. The blight of this statute, which is at war with the policy of full revelation of relevent evidence, should be swept away.

The Uniform Rules of Evidence also abolish the rule which forbids a party to impeach his own witness. Idaho still has this common law rule in partial effect—that is, a party may not impeach his own witness. The Uniform Rules of Evidence take a bold step in abolishing this old common law absurdity.

While the marital privilege of the Uniform Rules is substantially the same as the marital privilege under the Idaho law, the Uniform Rules are more explicit as to the exceptions and as to the determination of the privilege. Furthermore, the Uniform Rules would abolish the dubious distinction that is found in the Idaho law between the marital privilege and the marital incompetency. The marital privilege lasts no longer under the Uniform Rules than the period of the marital relationship. This is a definite departure from the Idaho rule. My own personal feelings are that the Uniform Rule on the marital privilege is superior to the current Idaho law of evidence on the same subject matter.

Any discussion of the Uniform Rules would be incomplete without pointing out one shocker. Uniform Rule Number 23 provides that if the defendant in a criminal action fails to testify, the prosecuting attorney may comment on such failure and the jury may draw all reasonable inferences. I should pause, I guess, to let that one really sink in. However, before you are too badly shocked by this change, let me point out a sugar coating that has been put around this pill. Rule 21 prohibits the impeachment of a defendant in a criminal case by proof of conviction of other crimes unless the defendant introduces evidence purporting to support his credibility. This Rule 21 corrects the practice of smearing the defendant in a criminal case under the disguise of discrediting his testimony. In view of the fact that Rule 21 protects the defendant accused of a crime who wishes to take the stand as a witness, there should be little reason for protecting an accused further by making his failure to testify not subject to comment. So, on the one hand the Uniform Rules of Evidence encourage an accused to take the stand as a witness and then they protect him from being smeared by his past record of convictions.

Obviously, this is not a step that could be taken through the normal process of case law. This is a two-step arrangement and as you know we would never get the situation before our Supreme Court so that the two could be decided by the same case. Under the Uniform Rules, we would have what I think is a far superior method of handling the question of the defendant who remains silent and is allowed to sit quietly through the entire trail with the jury wondering why he doesn' say something, and his own lawyer afraid to put him on the stand for fear his long record of convictions will convict him even though he is innocent. The Uniform Rules take care of this problem very nicely.

The Uniform Rules of Evidence rather drastically overhaul the procedure for using expert witnesses. This might be classified as minor shocker to some of you. The Uniform Rules of Evidence allow an expert witness to state his opinions without being asked hypothetical questions. The question seeking the opinion could be: "Doctor, in your opinion, is this man sane or insane? Does

he know the difference between right and wrong?" Of course, on cross-examination the expert witness could be asked for the facts forming the basis for his conclusions. This is certainly a desirable step forward and eliminates the mumbo-jumbo, meaningless hypothetical question which delays trials, confuses witnesses and fails to aid the trier of the facts.

The Uniform Rules of Evidence specifically allow the use of dying declarations in civil as well as criminal trials. You all know that dying declarations under the common law are allowed only in criminal prosecutions for homicide. The Uniform Rules say, if you can convict a man of murder with a dying declaration certainly it should be allowed in a civil case. Logically, you cannot attack the position taken by the Uniform Rules of Evidence on dying declarations.

In Idaho we permit impeachment of a witness by proof of any convictions of any felony. The Uniform Rules of Evidence permit impeachment by showing a conviction of a crime only if the crime involves dishonesty or false statements. In short, under the Uniform Rules, any of the violent crimes such as assault with a deadly weapon, murder, rape could not be used to impeach. I think if we are fair about it, a man shouldn't be impeached–his honesty shouldn't be attacked–by showing a violent crime. Under the Uniform Rules of Evidence, convictions of misdemeanors involving dishonesty could be used to impeach. You cannot do that in Idaho at the present time. Furthermore, under the new rules, specific acts of immorality may be shown to impeach a witness even though those specific acts of immorality have not resulted in a conviction of a misdemeanor or a felony. This is a radical departure from the Rules of Evidence in Idaho.

In addition to changing the law of evidence in Idaho on matters where we have rulings from our Supreme Court, the Uniform Rules will provide answers to questions on evidence on matters where we have no rules. For example: When a character trait is in issue, the Uniform Rules of Evidence permit proof of that character trait by (1) specific acts showing that trait, (2) reputation, and (3) opinion of those acquainted with the person whose character trait is involved.

Many other instances could be pointed out to you. However, I feel that these other instances do not, in the main, constitute a material deviation from the prevailing common law rules in other jurisdictions. In short, the gap in the Idaho law of Evidence which would be filled by the Uniform Rules would, in the main, consist of the prevailing common law rule.

The Uniform Rules of Evidence are an excellent compromise between those who are used to and like our common law rules of evidence and resist change of any type, and those who would discard the bulk of the common law rules and substitute some far-reaching innovation. Like all compromises, no group can be completely satisfied, but it seems to me that the composite result of this compromise is a big step forward. It is a compromise which should be accepted by all segments of judicial thought. While the Uniform Rules are, in my opinion, the ultimate in simplicity, as far as a difficult problem, such as the law of evidence is concerned, it does not mean that those who use the rules will not be required to have a good background in the law of evidence. Rules of evidence are not complicated when stripped down to fundamentals.

The Uniform Rules of Evidence have done just exactly that, stripped the subject down to fundamentals. The lawyer who understands the reasons behind the rules will have little trouble with evidence in court. The Uniform Rules should be a help to those who are well grounded in evidence, but even more so to those who fear the court house front door. The Uniform Rules will constitute a simple, effective tool which will aid in the administration of justice. They should be welcomed by lawyers and judges alike. These Uniform Rules —and I think this is the ultimate test—would make good sense to the layman.

We might ask ourselves why the word "Uniform" was used to describe these rules of evidence. Obviously, uniformity of law and procedure has always been a desirable goal, except when local conditions call for a variation. Variation in local conditions cannot be cited as a justification for variation in the rules of evidence through the United States. Human nature is the same in Idaho as in California or as in New York, and I could keep on going for forty-seven more states, if I could remember all forty-seven. What we should seek is the best rule of evidence for all the states; and when substantial–and I didn't say unanimous–and when substantial agreement is found, that rule should be uniform throughout the United States. Try to explain to a layman why the police can search a home without a warrant in Colorado and use the evidence to convict while the same would be inadmissible in Idaho. Why do we have the privilege for physicians and patients in Idaho, why is that necessary for our well-being as far as medical care is concerned? Walk across the state line and find another state that has been able to get along fine without this particular privilege. There isn't that much difference between medical care in our state and medical care in another state.

The Uniform Rules of Evidence are the culmination of brilliant scholarship, good common sense, genius and a tremendous amount of hard work for a period extending for fifty years. The fruits of that effort are here for you, members of the Idaho Bar, to accept. I believe that the Uniform Rules of Evidence should be accepted or rejected as a package. Just as soon as any state starts to graft on modifications, these rules lose one of their most desirable features, uniformity throughout the United States.

There is much that is worthwhile and worth preserving in the tried and tested fundamental features of our common law rules. I often tell members of my class: if you find anything that you could improve, let me know. I don't know whether its because they are bewildered and completely confounded by the Rules of Evidence, but I get very few suggestions. The Rules of Evidence we have in existence throughout the United States are basically sound. Therefore, we should support and work for the adoption of the Uniform Rules which are conservative and yet which make some common sense concessions to liberality in the interest of being realistic and logical rather than sentimental and absurd.

We lawyers are appalled by volumes of Wigmore and we are driven to despair by the spawning mass of rulings and statutes which tend increasingly to clog trial machinery. Here is a chance to improve the administration of justice.

I have one final suggestion: if after full consideration of the Uniform Rules of Evidence as compared to the existing rules of evidence such as

we have in Idaho, it is the decision to adopt the Uniform Rules of Evidence, we should repeal directly the statutes which the Rules are designed to supplant. I have in mind the rules of procedure we have which supplant the existing procedure to the extent that the old is inconsistent. I think we had just as well pick up an axe and chop off the old statutes that we intend to get rid of, and get down to a clean, clear cut set of rules which we would have if we adopt the Uniform Rules of Evidence completely, uncluttered by statutes which are left untouched. So it would be my suggestion that if we do decide to go forward with it, we set forth the specific statutes which are eliminated completely by the adoption.

Well, I don't want to push the Uniform Rules of Evidence to the point that I develop opposition. My purpose here today is to get you thinking about these Rules. I think there are a number of lawyers throughout the state who find rules of evidence very easy to handle, but in a State such as ours we have predominantly the general practitioner, as Mr. Cooper pointed out. The general practitioner is not able to keep as sharp on the rules of evidence as the man who is in court several days each week. The Uniform Rules of Evidence would help the latter individuals, the man who has little opportunity to keep abreast with the ever changing mass of decisions on evidence. With the Uniform Rules, he would have a simple document to go to and have a basis for making his objections, planning his case that he is going to present before the Court.

I am certainly pleased that the Commissioners gave me this opportunity to advocate the Unifom Rules of Evidence. I hope you will all think about them. Maybe we will be one of the first states to adopt them. There is a tremendous effort throughout the United States to get the jurisdictions to consider the Uniform Rules of Evidence, and I think it is only a question of a few years before it is widely adopted. If we hadn't had the Model Code of Evidence as its predecessor, I feel that we would have had the Uniform Rules of Evidence adopted by a dozen states already, but its predecessor left a curse on the Uniform Rules of Evidence and it is going to take a few years for that curse to wear off. Thank you very much.

PRESIDENT J. BLAINE ANDERSON: Thank you, George, that was a most illuminating presentation and we thank you for it, and thank you and your committee for the tremendous work you have done already. We know you have lots ahead of you. We will all be looking forward to a report possibly next year. Is there anyone who would like to direct any questions to Professor Bell? I think he can possibly bat them down if you want to try it.

TOM MILLER: Do you think, Professor Bell, that the Uniform Rules of Evidence are such that they would encourage their uniform application by different states?

MR. GEORGE M. BELL: Well, when you get something as basic as some of the points I pointed out. For example: That you can comment on the failure of the accused to take the stand, I would say that is going to be uniform throughout the United States. When we get into some of the more complicated area of the Rules of Evidence, I agree with the thought I believe is behind the question, we might get variations in the interpretation, that is always possible. But I think the basic framework of the Uniform Rules of Evidence

would not be susceptible to such a radical interpretation as to destroy their uniformity.

KARL JEPPESEN: Did I understand you correctly to say that in a criminal case an accused could be–For instance, prior convictions and prior incidences where he had been convicted–that similar evidence can be brought into the trial?

MR. GEORGE M. BELL: That hasn't been changed, no. You can't convict him on his past convictions under the Uniform Rules of Evidence.

KARL JEPPESEN: How would that rule go that you commented on?

MR. GEORGE M. BELL: Well, just this, that he has got to take the stand or take the consequences of an attack by the prosecuting attorney as to why he didn't take the stand; in other words, a comment on it. And then on impeachment he cannot be impeached for his past record. You are all acquainted with the practice when you have a defendant with a yard-long string of convictions. You have got to make a decision, do I put him on the stand and let the prosecution read off this list of convictions to impeach him allegedly? But we know that that will convict him. Well now, that isn't permitted, unless he takes the stand and takes the burden of showing that he has good moral character. If he does that then you can show his convictions. If he takes the stand and leaves out any support for his character, then he can't be impeached by his record of convictions. Did that answer your question?

MARCUS WARE: May I ask a question? Under our statutory probate law, of course a will has to be signed by two subscribing witnesses. That is, there are no qualifications set up in the statute. In common law, now maybe I am using the wrong term in saying in common law, but in the law of probate as developed in England through the ecclesiastical and chancery courts, a subscribing witness who was a beneficiary or interested in a will was not a witness who could prove the will. Now, what would the new rules do to that–Now, it hasn't been decided in Idaho at the level of the Supreme Court, as far as that goes, but it is a generally accepted proposition that you better not have an interested person witnessing a will. Now, what would the new rules do to that concept?

MR. GEORGE M. BELL: Well, as I pointed out, the Uniform Rules abolish all incompetency and all privileges except the few that are retained. That is a basic step behind the Uniform Rules of Evidence. As I recall nothing is retained on that particular point.

MR. MARCUS WARE: Then for that matter–I am just talking now–Mr. Merrill and I could hold a pistol at your head while you wrote a will in our favor and we witnessed it and we could testify to it?

MR. GEORGE M. BELL: Well, that might be true.

MR. MARCUS WARE: We wouldn't do that, you understand.

MR. GEORGE M. BELL: All I can say is that you might find the Supreme Court following one approach for witnesses under a will, another approach for witnesses before a court who were giving testimony, and probably saying the Uniform Rules of Evidence do not apply where you have a witness to a will.

MR. FRANCIS HICKS: Professor Bell, getting back to Mr. Jeppesen's question, I think I heard you say that where a man's integrity or honesty are in question in the trial, other similar acts of dishonesty could be introduced, even though they had no relation to the case in question, is that correct?

MR. GEORGE M. BELL: No, I would like to clear that up. When a person appears as a witness, then his character is subject to attack, even though the attack is not based on anything relevant to the issues in the case.

MR. FRANCIS HICKS: This is whether or not he is a party?

MR. GEORGE M. BELL: Regardless of whether or not he is a party.

MR. FRANCIS HICKS: Then could that be rebutted by showing other instances where he was honest? If so, where would it end?

MR. GEORGE M. BELL: You know that's the problem. The answer to your question is no. You can show he is bad, you can show reputation for good, but you cannot show specific instances of good under the Uniform Rules of Evidence. Does that answer your question?

MR. FRANCIS HICKS: Yes. Do you think that is proper and fair?

MR. KARL JEPPESEN: That doesn't answer his question, then can he drag in other instances?

MR. GEORGE M. BELL: He cannot. He cannot bring in other instances of good character, but he can bring in reputation for good character; there is all the difference between night and day between the two. Reputation is what people think you are. Specific instances are what you actually are.

PRESIDENT J. BLAINE ANDERSON: Are there any other questions? (no response) Thank you very much, George, it has been very interesting. At this time we will have the drawing for the one year's subscription to the Idaho Advance Sheets. (John B. Bell) They have to be presented, yes; we are still drawing for the same one. (W. R. Padgett) Is Bill Padgett present? (no response) Calvin G. McIntyre; Is Cal. McIntyre present? (no response) Got a winner—Karl Jeppesen.

Lawyer's Treasury, donated by Bobbs-Merrill. Who has number 137? (no response). John Gunn (no response). Tom Church (no response). W. W. Nixon (winner).

Advocacy and The King's English, donated also by Bobbs-Merrill. Bill Furchner (winner).

The next is also one year's subscription of the Idaho Advance Sheets. Judge Norris.

JUDGE NORRIS. I will pass on that and donate it back to the Association.

PRESIDENT J. BLAINE ANDERSON: Doug Kramer (winner).

The next is *Interstate Enforcement of Family Support,* donated by Bobbs-Merrill, by William J. Brockelbank, it says in small print "The Runaway Pappy Act." John Hepworth (winner).

Gentlemen, that concludes today's program and we will be in adjournment until 9:00 in the morning. I will remind you of the Trail Creek barbecue and direct you to your programs. The buses leave from in front of the Lodge if you desire transportation. I also call to your attention the University of Idaho, College of Law, alumni breakfast at 8:00 o'clock in the morning in the Duchin Room. So, I will see you all in the morning at 9:00 o'clock sharp.

Friday, July 14, 1961

PRESIDENT J. BLAINE ANDERSON: Gentlemen, the meeting will come to order. Before proceeding with the regularly scheduled program, I would like to announce that the Prosecutors' section luncheon, which was originally scheduled for the Redwood Room in the Lodge, has been scheduled for the Lodge Ski Room at the same place as it was yesterday.

I would like to read to you a telegram we received late yesterday. It is addressed to Edward L. Benoit, who was appointed by the Commissioners to host Mr. Ben Berg, Jr., President of the Montana Bar. "Edward L. Benoit, Idaho State Bar, Sun Valley, Idaho: Regret that I have unavoidable commitments preventing Mrs. Berg and I from attending Idaho State Bar Meeting. Have delayed answering your invitation in hope that we might be able to attend, but this is now impossible. Please extend greetings to President J. Blaine Anderson in appreciation of the Montana Bar for his services in explaining operation of Integrated Bar. (Signed) Ben E. Berg, Jr., President, Montana Bar Association."

Now, we certainly regret that Mr. Berg could not be present. I wish you all could meet him. He is a fine gentleman.

At this time again we depart from the regularly scheduled program. We are privileged to have with us John A. Carver, Jr., Assistant Secretary of the Interior. I am sure all you gentlemen know John personally, and we are proud of you, John, and your accomplishments, and I would like you to come up and make a few remarks, if you will please, and introduce your guest.

MR. JOHN A. CARVER, JR.: Thank you, Blaine. It is like coming home for me, and I appreciate that fine introduction, Blaine.

The first guest I want to introduce (he is in absentia) is the Honorable James K. Carr, who is the Under Secretary of the Department of Interior, who is at the moment sampling many of the things that Idaho has to offer over at Challis—I think fishing. Most of you lawyers, I think, will forgive an engineer choosing that rather than our business meeting of the Bar Association. I will say that when you meet him you can remind him that he comes from a distinguished legal family; his father was one of the leading practitioners in Redding, California for many, many years.

I also want to introduce to you another man who is with me today, but since he may take his prerogatives in saying a word of two, I will mention him in just a moment.

I have been back in Washington since January, 1957. Until January of 1961 I maintained affectionately at least, that I was sort of practicing law in Idaho, keeping my name on a door in Boise, and otherwise getting all of my Bar Association mail in my office there. At the beginning of the "New Frontier" period, I severed that connection. We had sort of a hounds-tooth attitude about that sort of thing; we invented that term. I don't know whether it may come back to haunt us or not. Some people may deny that we invented it. At any rate I vented a great deal of attention on the part of the Administration to the severance of all other relationships. I am sure that my partners would say that it hasn't been very damn economically attractive to me, in the meantime; so it wasn't very much of a loss to give up the connection, but I did. However, to ac-

tually leave the ranks of the Idaho Bar Association, I was very sorry to leave under those terms. The other day I filled out an application to be listed in Martindale-Hubbel as an official in the Department of Interior, rather than as an attorney in Boise, Idaho, and I considered it a distinct step-down.

In the Interior Department I am responsible for many matters of great interest to Idaho, probably the one greatest interest is the Bureau of Land Management activities in Idaho. The Director of the Bureau of Land Management, Carl Lamson, of Oregon, who is known to many of you, will be known by many more of you. The Land Office in Boise and the various operations of that office are one of the responsibilities which I have as Assistant Secretary for Public Land Management. I also have responsibility in the Parks Administration field for the National Parks Service. Unfortunately, I can say with sort of a political sigh, it doesn't involve much in Idaho, and then I can add, yet. But let me say, I am not out here beating the drums for any addition to the National Parks system in the State. We do have the Craters of the Moon National Monument here. The interests which I have in the Indian Bureau are also of great interest to many Idaho people, and some of the Idaho Bar. Fortunately or unfortunately, as the case may be, practicing Indian law has become quite a specialty, and a good deal of that practice is centralized in Washington, D. C. I know that the Solicitor agrees with me that there is no efficacy; that is, there is no automatic improvement in a man's competency with a Washington address, and I would hope we would come to the time when there will be a closer working relationship between the Indian Tribes with their governmental responsibilities and the active practice by members of the Bar in the community. But I can say in that connection that this involves a degree of expertness, which is as difficult as trying a tax case, as an example. You don't automatically know how to practice Indian law, because you have to understand the Indian Reorganization Act and the governmental functions that are being carried on. I also have responsibilities in that office for the Alaska Railroad, which is of no interest to you here, but it is to me, because I am going up to Alaska later this month. And I am responsible for the administration of the territories, including the Virgin Islands, Guam and American Samoa, and for the Trust Islands in the Pacific. This operation has been extremely interesting to me because I had the the opportunity to visit these territories as soon as I took office.

With that brief rundown of what I do, it is my great pleasure at this moment to introduce to you the Solicitor of the Department of Interior. He is the one with whose millions you deal all the time, with people like Bill Burger in Boise; he is a country lawyer from Tucson, Arizona, who looks upon his job as you and I look upon government operations, and that is, how do they work for the benefit of the people and the country, and are the procedures workable and understandable to the average country lawyer? At this time I present to you the Honorable Frank J. Berry, Solicitor for the Department of the Interior.

MR. FRANK J. BERRY: Mr. President, Ladies and Gentlemen. I was supposed to have had the prerogative of declining this statement, and I am going to decline, the way the introduction started. I think John Carver came out here all the way from Washington to introduce me. He was able to say to you that this was coming home; of course it was for him. I have never been here before. I like what I have seen of it, but in a sense I can tell you that I sincerely feel if you have been away it is like coming home. So, from the time we went across

the peaks of the Rocky Mountains yesterday I could look out the plane window and see that there was nothing but barren country, or dry country, so different from the lush tropical area of Virginia, Washington and Delaware–I felt like I was home. I could see mountains again. And since my hobby has been mountain climbing, why I miss the mountains back east.

When we got off the plane I heard someone say something that made me feel at home. It was a discussion about motions for more definite statement; and this is something that I left behind me, just as truly as I left the dry mountainous country of the West when I went to Washington. I have exactly the policy in mind, it's still a dream, of making the procedures of Washington comprehensible to the country lawyer, and I hope to get to that as soon as I understand them myself. I counted the other day, there are four hundred lawyers in the Solicitor's office–and I will just say that this could happen to anyone, to be selected as the Solicitor for the Department of Interior–two hundred of them are in the Department of the Interior building in Washington.

If I were to take eight minutes–if I were to count them every day, spend an eight-hour day, I would just about get through when it was time to go home. You can only imagine the extent of the legal operations in the Department of Interior. Not only do we have bureaus that Mr. Carver has spoken to you about: Indian Affairs, Land Management and the National Parks Service–we have the Bureau of Reclamation, which is, of course, a most complex specialized field of law. We have all of the power problems in the way of nationally supported Federal Power, like Bonneville in the Northwest, and the Southwest, and the Southeast. Tennessee Valley and that sort of thing is really independent, but all the rest is public power–federal power projects that are run by the Federal Government. These problems are constantly before me, and I am comprehending a country lawyer that has suddenly got to become expert in all these fields. I don't apologize, I suppose if I am permitted to stay there for as long as eight years I may have some comprehension of what I am supposed to do and then turn it over to someone more efficient.

Thank you very much for your attention. It has been a real pleasure to me.

PRESIDENT J. BLAINE ANDERSON: Thank you, Mr. Berry, and if there is anything we can do to make your stay here more enjoyable, just call on us at any time.

We have the report of the Canvassing Committee. John Hepworth, will you come forward?

MR. JOHN HEPWORTH: Blaine, we have only one candidate. There were a hundred and two votes cast. But I would like to mention, before I mention the results, that eleven of those votes cast were invalid for the reason that the attorneys didn't sign the envelope, and as a result their votes couldn't be counted. Now, I understood that the instructions were quite explicit, but at any rate they were not always followed. This was a surprise to me; I thought that the only ones that didn't follow instructions were the Judges in our particular district. But, nonetheless, apparently this is something that runs through the entire legal field. Of those that were counted it was a real close race right down to the line, but Wes F. Merrill of Pocatello edged out. Congratulations, Wes.

PRESIDENT J. BLAINE ANDERSON: Thank you, John, and thank you, those who served on this committee.

At this time, Wesley F. Merrill, would you please come forward and accept your election?

MR. WESLEY F. MERRILL: I don't know whether I am supposed to say anything, but it appears to me that when by operation of law, you have to turn in a man as competent as Blaine Anderson and pick up someone like myself, I am sorry for you. I do appreciate the support and it gives me a great personal pleasure to accept the election. Thank you.

PRESIDENT J. BLAINE ANDERSON: Thank you for the few kind words, Wes.

At this time I will call upon Thomas Miller for the next part of our program.

MR. THOMAS MILLER: Mr. President, Members of the Idaho State Bar and their charming wives, and distinguished guests. I felt somewhat dumfounded when about a minute ago I was appointed to introduce one of our speakers. This is a step up, I suppose, and I suppose also that after this introduction it will not be repeated. I will go back to my own menial tasks as Secretary. But I will have this moment of pleasure in introducing this man, whom I had the honor of driving over last year to our annual meeting. Most of you will remember him. At that time he was President of the Montana Bar Association; he went out of office—out of that office last month. But in April he was appointed to the Supreme Court of the State of Montana. He has a history, a biography, which is much too long to go over this morning. I might mention a few of the highlights. He was admitted in North Dakota, Montana, Illinois; has had numerous criminal defenses in various States; and I understand that so far none of his clients have been executed. But I think probably I could cite one example to show how talented and resourceful he is. You will notice that he runs about six feet, four, and by way of background a lot of people diet to get into the service, or put on weight, or memorize a color-blind chart, or cheat a little bit some other way. I think I cheated a little bit on memorizing the eye-chart, but this is the only man I know of who became shorter, so he could become a pilot in World War I. And with that, I would like to introduce our next speaker, the Honorable Stanley M. Doyle of Polson, Montana. (NOTE: Judge Doyle's address has been omitted from these proceedings. The original transcript is on file at the Idaho State Bar office, Boise.)

PRESIDENT J. BLAINE ANDERSON: We will take the regular coffee break now. I understand that the Mutual of Omaha has set up a coffee dispensary for you outside. We will resume in ten minutes.

(At this time a short recess was taken).

PRESIDENT J. BLAINE ANDERSON: I have an announcement to make before we proceed with the regular program. The Judicial Conference will resume its sessions at twelve noon, sharp, with a luncheon meeting in the Redwood Room in the Lodge. I understand that one of the principal items of business for discussion will be Judge Doyle's discussion of the idiosyncracies of the judiciary.

At this time I will call upon Sherman Bellwood, immediate past President of the Bar to introduce our next speaker. Judge Bellwood.

JUDGE SHERMAN BELLWOOD: In Idaho we are hearing more and more about family law. Attention is growing each year about this most interest-

ing subject. We are fortunate this year in having a man eminently qualified in this field to talk to us about it. He has an impressive background and record which is in The Advocate, and I direct your attention to that in order to shorten my introduction. I will say this, that the Honorable Roger Alton Pfaff is a judge of the Superior Court of Los Angeles, and he was just assigned for the third year as the presiding judge of the consolidated domestic relations and conciliation courts. I now present to you, Honorable Judge Pfaff.

JUDGE ROGER ALTON PFAFF: Well, Mr. President and members of the Idaho State Bar, and your charming ladies, I am not going to try to compete with Mister Justice Doyle. However, there is one story that I might tell you – it has no relation to my subject – with regard to this question of respect for the judiciary.

There was this old fellow down in the South who was always getting into trouble, stealing chickens and getting drunk, always up before the Judge, who used to let him off frequently. However, on this particular day he admonished him by saying: "You have been in here so many times, you are going to have to go to jail for ten days." As they were leading the old boy away he muttered something under his breath, and the Judge said "Just a minute – bring the prisoner back here. Didn't I hear you use some profanity?" "Oh, no, Your Honor, I sure didn't." "Well, what did you say," asked the Judge. "All I said was, 'God am the Judge'", meekly replied the defendant.

Recently I heard a cute little story, about the old Pennsylvania Dutchman who was driving his cow down the road, and a big trailer truck came along and struck both of them and knocked them every whichway and killed the cow. The old farmer sued the trucking company. When the case came on for trial and after his attorney had examined him and he explained all about his injuries and what not, the attorney for the trucking company started to cross-examine him, and said, "Now, isn't it a fact that on the day you claim you were injured you said you weren't hurt at all? Now just answer that question yes or no." The farmer refused to answer; said he couldn't answer it yes or no. Finally the Judge said "Go ahead and answer it in your own way." "Well," said the farmer, "I will tell you, it's just like this – I am driving old Bossy down the road, along comes this big trailer truck, it knocks us every which way. The truck stops, there is a great big burly truck driver gets out, he has got a gun in his hand, he walks over to old bossy, he says 'you look hurt', and he shoots and kills her. Then he comes over to where I'm lying and he says, 'are you hurt' and I says, 'no, I ain't hurt."

Well, as I wrote to your program chairman, I agree with the old southern preacher that there are no souls saved after the first twenty minutes. I am sure with a group of lawyers and judges that there will be no souls saved after the first fifteen minutes. But what I would like to do is read here what I have prepared and then give you an opportunity to raise some questions about some of these points, which always happens, and I find it is very interesting, particularly with regard to this particular subject.

The American Bar Association three years ago finally gave official recognition to the importance of family law by creating its Family Law Section, which immediately received widespread interest and support. American Bar Association President Whitney North Seymour has aptly termed it "the conscience of the Bar."

To many of us connect the words "family law" solely with divorce, completely overlooking a number of other most important aspects in this field, such as adoption, juvenile law and procedures, estate planning, pre-nuptial agreements, wills, paternity, child support, foreign marriage and divorce, and conciliation courts.

When we commence to respect and treat family law on a basis of equality with the laws of contracts, torts, insurance and taxation, we will then accomplish several much-desired social and legal objectives.

The most important agreement in the world, – the marriage contract, will in many instances no longer be an oral perfunctory "I do" but will be the subject of considerable preliminary planning, and pre-nuptial agreements will become commonplace. In fact, it is far easier in most states to secure a marriage license than a license to drive a car.

Estate planning will become the concern of careful couples who desire to protect and preserve their marriage and its solvency.

But above all, interest in and respect for family law will create a favorable national psychological climate which will eventually result in reducing the rising tide of divorce in the United States. We must accept the fundamental premise that the marriage contract and the obligations of husband and wife, father and mother, are more important than any other obligation they are ever called upon to assume.

Just so long as we maintain a national attitude that marriage and divorce are more or less perfunctory legal proceedings, we will continue to possess a shameful record of broken homes and all of the evils resulting therefrom.

Since the beginning of organized society the state has always manifested a deep concern with marriage and the preservation of the family unit. This concern has been manifested by innumerable laws respecting marriage and legal separations. We must seek approval of the state to marry and must seek its approval to dissolve it. When couples legally separate, the state orders disposition of the community assets and the custody of children.

On the other hand, the state has exhibited little concern to establish safeguards against hasty and ill-advised marriages, provide pre-marital counseling, or engage in any program of public education designed to promote happy, stable and permanent marriages. This lack of public concern after marriage is equally true. Except in our larger metropolitan areas there are few agencies, public or private, that can provide expert family counseling. And even where such services are available there is slight public awareness of their availability, and in many instances of cost of such services create a financial barrier to their utilization.

If the home and family unit are the bulwark of our civilization, then widespread and contagious divorce is more dangerous than the communist conspiracy in undermining our free way of life.

When I was a boy in a small Middle Western community, divorce was a rarity and carried an unsavory social stigma.

Today, in too many cases, people wear their divorce decree as a badge of distinction.

Divorce is a disease, and in America it has reached epidemic proportions.

The divorce rate in the United States is six times that of Canada, and three and one-half times that of France.

In saying this I do not mean to infer that divorce is never justified. In many instances a legal separation is the only way to save the health and sanity of individuals. But we have found that in over 90% of all divorce cases it is neither necessary nor justified.

A few grim statistics point up this tragic social problem.

There were approximately 400,000 divorce decrees granted last year in the United States; more than 1,000 per day.

Today, one in every four marriages ends in divorce, affecting 300,000 innocent children each year.

California leads all other states, and combined with Texas, Ohio, Illinois and Florida, accounts for one-third of all divorces in our country.

Nor should we overlook the disastrous by-products of divorce. It is estimated that 75% of all young people in our Juvenile Halls are the product of broken homes; and two-thirds of the persons appearing in our psychiatric courts have a background of marital discord or broken homes.

Over half of our prison inmates have similar family backgrounds.

Recently it was revealed that 20 of the 23 American soldiers who defected to the Chinese Communists were the product of broken homes.

Doctors will tell you that many patients who consult them professionally are suffering primarily from marital discord, which may be the basic cause of the emotional or physical disability of which they complain.

In many instances the divorced wife and minor children become public charges, either supported in whole or in part by the taxpayers. I might say that last year, in Los Angeles County, the cost of aiding needy children was, in that one single county, was forty-eight million dollars, and many of those were children of a broken home.

The Director of the National Desertion Bureau has stated that there are nearly 2,000,000 wives with children deserted by husbands and receiving no support, which figure undoubtedly exceeds the number of divorces granted.

This, in brief, is a birds-eye view of the divorce problem. It is important that we determine what has caused this serious disruption of our social life in the space of one generation.

In January, 1958, I commenced hearing all default divorces involving children 14 years of age and under. During a 12-month period over 5,000 such cases were processed through my court. For three months I conducted an informal judicial Gallup poll in order to ascertain from this broad cross-section of American life certain facts which might indicate primary causes of marital discord and divorce, with the hope that some of these causes might point the way to a cure.

I found that in 95% of such cases either the husband, wife, or both, never attended church regularly. Now, let me adlib a little on this – That doesn't mean, of course, that if people do not go to church that they can't live together happily. But all I know is that 95% of them that were getting divorces didn't.

In nearly one-half of the cases one or both parties were the product of a broken home.

In 43% of the cases the parties knew each other for less than a year.

Statistics show that one-half of divorcing couples in America were married five years or less, and one-fourth less than two years.

There is a tendency today to marry at an early age. Unfortunately, in too many such cases the parties are emotionally immature and have had little if any experience in accepting life's responsibilities. The relationship too often is a shallow and superficial one based principally upon infatuation, and the ship of marriage is unable to withstand the slightest buffeting, let alone the stress and strains of rough seas.

The old adage expressed in the 17th Century, "Marry in haste and repent at leisure," is still true in our atomic age.

Divorce has also been glamorized by widespread publicity accorded certain celebrities, particularly in the motion picture industry. Newspaper accounts of large alimony awards have created a subconscious and mistaken idea in the minds of many American women that upon divorce they will immediately commence to live better, and have more money to spend.

Nothing could be farther from the truth. I have found that 75% of all divorced mothers with minor children under 14 are gainfully employed, by necessity, in order to adequately support themselves and their minor children; 83% of these divorced mothers receive only token alimony of $1.00 a month or year in order that the Court might retain jurisdiction, or no alimony whatsoever.

The child support payments by fathers, either agreed to by the parties or by order of Court, in 90% of the cases are woefully inadequate and represent at the most a mere contribution toward child support. In many instances the amount the father is ordered to pay does not even cover the cost of a babysitter or nursery school while the mother works to support the family. Contrary to public opinion, most divorced fathers are living better separate and apart from their families, with more money to spend on late model automobiles, expensive liquor, and other women, than when they lived at home and paid the community bills.

The Reciprocal Enforcement of Support Act has been functioning effectively to force fathers who leave their families and migrate to other states to support them. No longer can a father leave his wife and minor children in New York, Pennsylvania, or Iowa, migrate to Southern California, and escape his obligations for child support. The District Attorney drags him into court and he is forced to make payments or be found in contempt and face a fine or jail sentence. And I might say this is a big business in my court. We had somewhere over six thousand reciprocal cases last year.

On the other hand, procedures to force a father living separate and apart from his children in the same county to pay child support have been halfhearted and ineffectual. To cure this situation the judges of our Superior Court adopted Rule 28, which provides that the Court, under its own inherent power to enforce its order by contempt proceedings, has the District Attorney hale the

father in, as in reciprocal support cases, for a hearing on his failure to support his minor children. The effectiveness of this program, which has been widely acclaimed by attorneys, the Board of Supervisors, and the general public, is best illustrated by one statistic. During the first 15 months of our Rule 28 operation the Court Trustee of Los Angeles County received and disbursed under this enforcement program just under $1,700,000.

Medical science, while devoting itself to the treatment of disease, constantly emphasizes and directs its attention to what is called preventive medicine.

Those of us concerned with social ills should constantly endeavor to devise efficient and effective procedures to alleviate and correct human behavior patterns which adversely affect our community life.

In Los Angeles County, as in other progressive communities in the United States, the court itself, using its power and prestige, is endeavoring to resuscitate sick marriages and provide, through expert counseling, a blueprint for successful marital relations.

In the Los Angeles County Court of Conciliation ten trained marriage counselors, under my direction and control, are presently reconciling over half of the couples who solicit its services, and three out of four such reconciled couples are living together one year later.

During the past five years over 10,000 children have been restored to a united home due to such reconciliations.

In 1959, pursuant to Rule 6 of the Superior Court, each divorce complaint must contain the names and addresses of both parties, thus enabling the court to mail out a little pamphlet, "A Personal Message to Parents," to each party – I brought some along, if you would like to have a copy – which points out the problems of divorce and facts concerning the Conciliation Court.

Within the first six months after this pamphlet was mailed, we conservatively estimated that a 15% increase in filings in the Conciliation Court was due to its message.

To those cynical and penurious souls who look with little favor upon the court performing such a humanitarian social service, we can point out that the bread of conciliation thrown upon the waters of marital discord is returned a thousandfold in tax dollars.

A successfully operated Court of Conciliation results in substantial savings to the taxpayers in reducing the cost of public assistance. Let me give you an example.

One day a few weeks ago three reconciled couples were brought to my chambers by our marriage counselor. Each family had 7 children and one mother was pregnant with number 8. The husbands were all laborers and if they had not reconciled each mother would have commenced receiving from the Bureau of Public Assistance over $300 per month Aid to Needy Children support. These three reconciliations alone saved the taxpayers of Los Angeles County over $1,000 per month, and when we consider the Aid to Needy Children in Los Angeles County alone this year will cost over $48,000,000, we can truthfully say that this a court that pays dividends.

We are not so naive as to believe that the mere establishment of a court of conciliation and its successful operation is going to solve all our present-day social problems, but the people of Los Angeles County are convinced that it is a necessary and effective means of improving the social, economic and moral stability of the entire community.

Uniform marriage and divorce laws, family counseling, and conciliation courts represent a conscientious and determined attack upon this problem. These activities should be improved and accelerated.

But equally important is a far more difficult task – the task of educating a whole new generation of Americans to an appreciation of the spiritual values of life, the sancity of the home, and their primary responsibilities as citizens and parents.

To do this requires the mobilization of all the media available to influence public opinion – our educational system, the Church, the press, radio and television, and above all, parental influence and guidance – to the end that there be developed new and higher ideals and standards with respect to marriage, inter-family relationships, and divorces.

If we are to prevent divorce, our primary program and objective must be to discourage and reduce ill-advised marriages. This can only be done through a widespread and determined program of public education resulting in changed ideas and attitudes regarding marriage.

Let's take a few popular minconceptions regarding marriage – misconceptions which we hear repeated as though they were tried and tested marriage maxims.

We have all heard of "love at first sight." This juvenile romantic concept has been expounded by the writers of paper-back novels and glorified by the motion picture industry. Unfortunately, romantic first sight too often becomes tragic hind sight. William Shakespeare's declaration, "All that glitters is not gold" has peculiar applicability to this false phenomenon, and I am not solely referring to a disillusioned husband's surprise when he discovers that the honey-colored blonde he married was in reality a brunette.

Another pseudo-factual opinion is that "opposites attract," this idea apparently resting on the belief that "Variety is the spice of life." Nothing could be further from the truth. We know from experience and statistics that the more things couples have in common, whether it be philosophy of life, recreational activities, church affiliations, politics, etc., the better chance for a successful and happy marriage.

Whoever originated the novel notion that "Two can live as cheaply as one" must have been the father of those political and economic experts who blandly tell the American public that the federal government can provide security from the cradle to the grave, all without any cost to the taxpayers. "Keeping up with the Joneses" creates perilous hazards to domestic tranquility. Today we can paraphrase the old saying, "When the bill collector comes in the door, love flies out of the window."

Another questionable proposition is that "Early marriage should be encouraged." In the last two generations a great deal has been said and written about

the advisability of late teen-age marriage, the general argument being that through marriage young people would settle down and establish stability in their lives, thereby avoiding sexual promiscuity, the latter argument being principally advanced by a certain school of social and psychological thinkers who apparently believe that sex is the principal and paramount drive and obsession with the younger generation.

Without disputing this doubtful premise, we all know that the incidence of divorce among this age group is twice as great as any other age group, and infidelity is one of the most common complaints.

Another favorite but poisonous bromide is "Love conquers all." We have all heard of the missionary-minded girl who was determined to marry the weak, lazy, irresponsible ne'er-do-well and thereafter reform him; or the starry-eyed couple who, after a whirlwind courtship, ignoring the warnings of friends and relatives, scrape together the necessary funds to procure a marriage license, and secretly say "I do" before a Justice of the Peace.

On the other hand, if two people propose to enter into a business deal involving a few thousand dollars, Dun and Bradstreet reports are secured and checks are even made to ascertain whether any criminal record or other unsavory background is present. Yet a couple entering into life's most important contract, involving their entire future, will hastily hop into a car, drive to some convenient Gretna Green, and after a brief honeymoon, commence to discover all of the things they should have ascertained before the marriage. The bride discovers to her dismay that her Casanova failed to tell her that he had served a penitentiary sentence in Missouri for forcible rape, or that he had a wife and two children he was failing to support in Fresno, California, or that he was an inveterate gambler and every collection agency in town was on his trail.

An ancient adage is that "Marriages are made in Heaven," but too often the marital domicile is in a region far to the south of the Pearly Gates. And while we are recalling fallacious Pollyanna conceptions about marital bliss, we should repeat the familiar assertion that concludes most fairy tales, "And they lived happily ever after."

Every happily married couple knows that "the course of true love never runs smoothly"; that the only perfect marriage is in the movies, – and even that only lasts 90 minutes.

When we Americans alter our attitudes and develop new moral standards concerning marriage; when we once again make our marriage vows a sacred covenant, which should not be entered into lightly or frivolously, but thoughtfully, seriously, and with a deep realization of its obligations; when we recognize and accept the fundamental fact that a successful and happy marriage is the most noble and beautiful of human relations, requiring for its full realization the exercise of all that is best in the human heart and mind, inviting unselfishness and consideration for each other, which is the basis for all true happiness; when we become dedicated stewards and guardians for the welfare of our children by accepting our divine obligations as fathers and mothers; – then and then only will we become decent and responsible husbands and wives, fathers and mothers. Thank you.

PRESIDENT J. BLAINE ANDERSON: Judge Pfaff, thank you so much for a most interesting and sobering address.

Now, we have a few moments to direct any questions to Judge Pfaff. When you do, for the record, would you just state your name. Are there any questions?

MR. LLOYD WALKER: Judge Pfaff, what training do your conciliators have – what background do they have?

JUDGE PFAFF: Well, that's a very good question. The ten marriage counselors we have, have a Master's Degree. Our requirements are that each counselor must have a Master's Degree in the behavioral sciences, and at least five years of prior counseling experience, before they come to the Court. It so happens that all of our present counselors have over ten years counseling experience. And then in addition to that, there is something that is very important: You know you can have someone who's got all the degrees in the world, and has been working at his job for a long time and yet he wouldn't be worth anything at all as a counselor, because he could just be so clinically cold in his approach. You have to have a person who is a warmhearted, outgoing person who likes people, and that people will instinctively be drawn to. That's the kind of a person that you must have, in addition to the other qualifications. I think that largely counts for the success of our court. This year so far these marriage counselors have been reconciling over 60 out of every 100 couples that come to them, and our statistics still show that a year later, three out of four of these couples are still living together. We send a questionnaire out at the end of the year – have been doing it for years to check up to see what has happened to these couples. It's the only way you can see if you are getting anyplace. And there is a place for comments, and they are very, very interesting, these comments. They will write and say "Thank God for the Conciliation Court," or "God bless the Conciliation Court," and "we are now back, we are still having some problems, but we understand our problems, we are getting along." We have a husband-wife agreement that these parties sign. I sign it. And when I sign it as a Judge, and they sign it, it becomes an Order of Court, and it is punishable by contempt if they violate it. I have never thrown anyone in jail for contempt. Judge Burke, who is not a presiding judge of our court, when he sat with the Conciliation Court, threw a man and his paramour – who he agreed he wasn't going to let him see her – and he threw the paramour and the husband both in jail. Which, by the way, that is another interesting thing, we can also join a third party romantic interest in, as third party respondent. I have helped lots of husbands out in this respect. A husband will get into a little affair with some lady – some other lady – and when the wife finds out about it, and he is very contrite, and is tired of her by this time anyway. So she comes in with a petition to the Conciliation Court – the husband will come in and say, "Judge, you know, I don't want anything more to do with this woman, I'm tired of her, but I can't get her off my back. Now, is there anything you can do to help me out." So we join as a party respondent, mail her out a little letter and say "you are ordered to appear – at such and such a time." This usually does the trick, she just picks up and leaves; she moves. And I have got a lot of letters from half the husbands who say" I can't tell you how much I appreciate what you did for me." Also, we get a course of letters too saying that their reconciliation is stale now. After they sign this husband-wife agreement, either party can terminate it if they want, on request to the court, and we have 25% of them approximately who are terminated, and they also, some of them write in letters and say – One woman wrote this

one, she said "Oh, we are still together, but the worst day in my life was when somebody talked me into coming to your Conciliation Court, my husband hasn't changed a bit and I am pregnant again." But the success of the Conciliation Court depends upon the utilization of his marriage counselor, and I will say this – they keep the family as a unit, it's operated entirely different than a psychiatrist. I don't farm out people. I read these articles about the utilization of psychiatry. I have the greatest respect for psychiatry, but a psychiatrist deals with one person – a psychiatrist does not want to deal with a family as a unit, and that's the only way you can ever restore a marriage. You just can't do the work on one person, because one person is never entirely responsible for the problem.

JUDGE JOHN A. CARVER: Do you have any reaction from the members of the Bar who fail to get these divorce cases by reason of what you are doing?

JUDGE PFAFF: Yes, I am glad you asked that question. The best indication of the support of the Bar, or lack of support, is the fact that in Los Angeles County today 75% of all the cases that we get in the Conciliation Court are attributable directly, or indirectly, to attorneys. That is the way the attorneys support the Conciliation Court. No. what happens is this. Recently their interest in setting up a Conciliation Court in Sacramento County, and since that is the State Capitol, I was of course interested that they were going to set one up right, and so they were going to have me come and speak, and I suggested that they have a meeting of the members of the Bar Association and supervisors, and get them all together in one big meeting. The attorneys said "nothing doing," they wanted to have an evening meeting at the Elks club, and they wanted me to speak to them, but they didn't want anybody – I haven't forgotten, I practiced law – I haven't done for fourteen years, but I hadn't forgotten that I practiced law, so I think I know how attorney's minds work. I knew what they wanted me there for. They wanted to ask some very searching questions but they didn't want anybody with any other occupations to listen to the questions. So, we had the meeting, and I could just sense a certain negative attitude. But when I got through and I explained – which I haven't gone into detail here about the Conciliation Court, because it wasn't to be my subject here today – when I got through, their attitude was completely different, and thereafter they had a Board of Governors meeting of the Sacramento County Bar Association, and they unanimously approved of setting up a Conciliation Court and they introduced a bill in the Legislature and it's been passed, and I assume that the Governor has signed it by now, to take effect the first of September of this year. Now, what I have done in Los Angeles County –

JUDGE JOHN A. CARVER: But say the attorneys that support it, refer these cases, they haven't yet any fees in the matter?

JUDGE ROGER ALTON PFAFF: Oh, I will tell you that in just a minute. No. 1. A woman files a suit – she goes to an attorney, and he files a divorce complaint. They come in on an order to show cause, or we call it a pendente lite order. Now at that time the attorney will come in and he will get up in front of the Court and say "Your Honor, I feet that this is a case where the couple should go to the Conciliation Courts," and then I gavel and palaver with the couple, and they want to go down. So I send them down – refer them to the Conciliation Court – it's just down the hall from my master calendar. Then

at that time I can award attorneys fees to the attorney; and usually what I do is, the customary attorney's fees for a default divorce or on an order to show cause order is $200 and $25 costs; so what I do is, I will make an order for attorney's fees in the sum of $200, and $25 costs, provided that if the couples reconcile and sign a husband-wife agreement it will just be a $100. for the reconciliation fee for his services. This has met with widespread approval among the attorneys, and they tell me they get paid right off when they reconcile, the couple are both happy and feel kindly towards the lawyer, they go out and say to all their friends "If you want a lawyer, go see John Smith, because he is the finest lawyer in Los Angeles County; he saved our marriage for us."

The other type of case is this: No divorce is filed, a woman comes in and wants to file for divorce. The attorney says, "well, where is your husband, let's get him in here." So he comes in, and the attorney says, "why don't you go down to the Conciliation Court and file a petition for the wife." So he gets the affidavit and the petition and fills them all out and has her sign it, and he files it for them. In my opinion he is entitled, and I have the power under the law to grant him a fee. In my opinion, he is performing a far more meritorious social function in saving the marriage than getting a interlocutory decree, and nine times out of ten he waits until kingdom come to ever collect it on an installment plan. Every attorney knows who has ever handled a domestic relations case. I am sure that old expression called the never, never plan, must have been originated by English barristers who handled divorce cases, in trying to collect fees. Judge, does that answer your question?

JUDGE JOHN A. CARVER: Yes it does, and I think it is what the lawyers generally wanted to know, because frequently—not all of them, but some of them, have considerable divorce business, and they are just a bit uneasy about losing their fees.

JUDGE ROGER ALTON PFAFF: Let me read you an excerpt from this -- I will send this to the Judges, I am going to have a meeting with the Judges this afternoon, and this is a book I wrote on Conciliation Courts, in the form of questions and answers in the back of the book, and has all the forms of the husband-wife agreement. If you are lawyers, please don't write and ask me to send you this, because the County pays for printing this and I can't send it to you free. I can't sell it to you either, for that matter. But, if you want this, you can – But let me read you what an attorney, who is one of the biggest attorneys in Los Angeles, a divorce attorney, wrote. Question 22, in this book is "What is the attitude of attorneys toward Conciliation Courts?" – I have already told you what that is, but – Well, let me read you the first paragraph, because this is the question you have in your mind: "When the creation of a Conciliation Court is proposed, attorneys in general are not initially enthusiastic. Some of their reasons for reluctance to endorse such a program are undoubtedly due to the feeling that the Court is meddling in their divorce cases, and a general lack of understanding of how the Court can aid not only their clients but the attorney as well. These are natural reactions that must be answered if the essential support of the organized bar is to be secured." Then I go ahead and I give you the statistics like I had come up in Los Angeles, and how we work it, and the awarding of fees. Now, this is what this Los Angeles attorney wrote: "An attorney has a better chance to collect a fee from a reconciled couple than from a husband who is financially pressed

by paying alimony and support to wife and children and an attorney's fees on an installment basis. The real bite in the 'loss of income' argument is that it implies that lawyers should do nothing to promote reconciliation for purely personal financial reasons. This is our duty regardless of such consideration. In addition, where a lawyer has been instrumental in reconciling a couple he has two clients for a long time to come, and if for some reason the reconciliation fails, they usually go back to the same lawyer anyway."

JUDGE JOHN A. CARVER: May I interpose another question, please. As I understood you, Judge, you spoke of the District Attorney which would be our County Attorney out here – being required to take action to collect child support within the home county. Now, Judges are bombarded constantly out here – not in Los Angeles, but out here – by calls from girls who come in and receive divorces – "You granted my divorce." By that time, of course, I have forgotten about it – "But my husband hasn't paid me a dime. What am I going to do?"

JUDGE PFAFF: Well, I am going to tell all you Judges about this at noon today. But I will go into this briefly, if you attorneys are interested, because I have never –

JUDGE JOHN A. CARVER: There are some Prosecuting Attorneys here that want to know.

JUDGE PFAFF: I am conservative in my approach. I never try to institute any new gimmick or device or procedure until I conduct about two months' informal Gallup poll among lawyers that come into my court. And I find that if over 95% of the lawyers say, "Judge, I think this is a whale of a good idea," then I know there is a good chance that it is going to succeed. If 95% of them say, "I don't like the idea," why then I give it a long second look. I don't think I have ever introduced any program that the overwhelming majority of attorneys didn't like. But handling reciprocal cases and being bombarded with – as the Judge has said here – by wives, they call my Clerk, they say "My husband hasn't paid the child support, I called up my attorney and he doesn't want to take any action, he said he hasn't been paid his fee from the husband in the first place; so he says, 'go call up Judge Pfaff, and let him help you.'" So, she calls up. Well, of course, I couldn't do anything either, and I feel sorry for the attorney too. He doesn't want to spend any more time and pay money out of his own pocket for serving the guy on an order to show cause in re contempt. So I thought to myself, "why can't we do for the children living in our own county what we are doing to the children in the other forty-nine states in the Union." We are doing a magnificent job under the Reciprocal Act, at least we are in Los Angeles County. So, I had a bill introduced in the Legislature at the Fifty-Ninth Session that tripped them up; I am going to tell you about, it went through both houses, and finally on the last day, in the Senate, some young new Senator got up and said he thought it was a terrible thing that it provided in this bill that the money paid through the Court Trustee where the wife was receiving Public Assistance, the Court Trustee send it to the Department of Charities, a reimbursement against what they are paying her, and he thought that was a terrible, unjust, inequitable thing to do; and the bill was killed. Well, I said to heck with the Legislature. You know I found – I used to be in the Legislature myself – but I found there are a lot of things you can accomplish without getting any law passed. It is more pain-

less – just search around. So, I got to thinking, "well, why can't the Court, the Court has the inherent power to enforce its orders by contempt proceedings." So I got together with our presiding Judge and the District Attorney, and the Sheriff and the Court Trustee, and talked this thing over with them, and said, "now why can't we do this – when I make an Order for child support to be paid through the Court Trustee (I think you have such a system here, through the Probation Officer – I suppose you usually have the same system, a restitutional thing that can be paid through your Probation Officer?) When it is ordered paid through the Court Trustee, as we call a Probation Officer for this purpose, on the second delinquency he notifies the District Attorney, and the District Attorney – and this is all under the Reciprocal Support Section, they just tage it over as an added functionbut the District Attorney, acting as my attorney, and without any arrangements whatsoever with the wife or her attorney–of course, the wife's attorney wouldn't be worried about this in any respect, because he would be tickled to death to get her off his neck as they have—all the attorneys in Los Angeles County are enthusiastic over this program. The District Attorney proceeds to hale him in on just like a reciprocal, and we have a regular hearing; and usually one time in does the trick, in before the Judge. We throw them in jail too, some of them, but usually if it is on a contempt, it is put over for a day of sentencing to let him start making payments, and like I say, in 99% of the cases they are paying up, and in the first 15 months we have collected $1,700,000.

JUDGE JOHN A. CARVER: What about the District Attorney? Doesn't he complain that he isn't paid for that work?

JUDGE PFAFF: Paid for it – The District Attorney is an officer of the Court, he is a County employee, and this is saving the taxpayers – Well, let me go one step farther – So then I have to go to the Board of Supervisors to get the money to give to the District Attorney and to the Court Trustee to hire additional help – that's the next thing. Someone said, "how do you ever expect to get the Board of Supervisors to appropriate that much money." Well, I said, "I want to tell you, whenever you go to a Legislative body and you can tell them for every dollar they spend they get ten back in return, you don't have to argue long to get them to approve a program." And I did. They unanimously approved and they appropriated the money and its been working now for – well, April was the fifteenth month; and the District Attorney is happy about it. Furthermore, its the finest public relations program that the District Attorney can have. And the Sheriffs, by the way, serve these things too, free of charge when they are faced with a Court Trustee. Now in many of these cases the wife is receiving public assistance, the husband is working and getting $125 a week take-home pay, and he is driving a late model car and he is not contributing a dime for the support of his children. And under the old system, where the District Attorney had to bring failure-to-provide proceeding – or the City Attorney. These were very ineffective, and usually they brought the husband in for an informal hearing in the District Attorney's office, and if he agreed to pay five dollars a week for three children –– fifteen dollars in total, they would say. "okeh, that's fine, we won't file a failure to provide complaint against you." Anyway, it's saving the taxpayers money. The first month there was fifty dollars reimbursed to the Department of Charities, where the mothers were receiving aid, and eight months later that had jumped up to just under twelve thousand dollars a month that was being remitted every

month to the Department of Charities. It just keeps going up, up like that. Now, I don't know, but I will make you any wager that in Boise and in Pocatello and other larger areas, your aid to needy children program is a big taxpayers' load and it keeps going up and up because these glorified social workers who – some, too many of them, believe that this is the golden opportunity to share the wealth here and now. They use this glorified scale put out by the United States Department of Welfare where it starts out at $145 for one child, running up to nearly $400 if you have got eight or nine; and what they do is this: They tip to certain people in my County, who the husband will say are uneducated and just don't want to get a – are unskilled, let's put it that way – but are uneducated and unskilled and can only get a laborer's job, but the simple expedient of the woman's – of separating, she goes to the Bureau of Public Assistance, they will start giving her – if she has got enough children – as much as $100 more a month net tax free than the husband ever earned gross when he lived at home and worked. Now to me this encourages separations and divorces. I had a couple come up before me just before last Christmas. They had six children, she was pregnant with number seven, he was carrying number six in his arms, they were about thirty years old – a nice looking couple. I said "what are you getting a divorce for?" So he speaks up and says, "Well Judge, Your Honor," he says, "I don't want a divorce, but," he says, "My wife has got three friends of hers and they have all separated from their husbands, and they are all getting over $300 a month, State Aid he called it." And he said "I only make about $250 to $260 a month working, and my wife has figured out where she can live better separated from me than she can with me." So I said "What's the matter with your husband, does he get drunk?" "Oh, no," she said, "Henry never takes a drink." I said, "Well, does he beat you up?" "Oh," she said, "my husband has never laid a hand on me." Well I said, "Does he run around with other women?" "Oh," she said, 'Henry never looked at another woman." I said "Mister Bailiff, take them down to the Conciliation Court."

MR. C. H. HIGER: Judge Pfaff, I am just wondering what is your procedure or practice down there, do they allow District Attorneys to have any private practice whatsoever?

JUDGE PFAFF: No, no, the District Attorney cannot practice. No District Attorney os no member of his staff can engage in the private practice of law. Mind you, I am not saying that in certain instances, while there are certain counties where they have only got fir trees and jack rabbits, up in the mountains, in California, there isn't any business, why nobody would act as District Attorney if he couldn't practice law, and they haven't got enough income or business to justify paying him a salary. So he has got to have private practice on the side, but in no larger metropolitan area is that permitted. And I don't think that in any area of any sizeable population it should be permitted; you ought to pay the District Attorney a sufficient salary and allow no practicing on the side.

MR. FRANK CHALFANT, Jr: In your opinion should the administration of the family law – I assume this includes juvenile delinquent matters too – is this more successfully done through the jurisdiction of courts and legal trained people, or shouldn't it all be turned over to the State Department of Health?

JUDGE PFAFF: No, no, I am away ahead of you on that. I don't think that any conciliation court proceedings should be turned over by the court to

the State Department of Welfare, or anything else like that. We tried to do that in Utah, as I remember, and they got clear out of hand. I think that any conciliation proceedings with relation to domestic relation matters in court should be under the jurisdiction and control of the judge of the court, and it shouldn't be over here running off on their own. If you do, you will get into trouble, and every time its been done – Now, don't misunderstand me, this is what they try to do – In Imperial County, when they wanted to set up a Conciliation Court, the Department of Social Welfare immediately said, "we will take over that function," and the Judge had a dickens of a time trying to keep them from doing it. No, I will be very happy sometime to come back up here again in the winter, if you would like to invite me, and have a meeting with your State Bar on this whole subject of Conciliation Court proceedings. It's sweeping the country.

Thank you very much, its a pleasure to be here with you.

PRESIDENT J. BLAINE ANDERSON: Thank you again, Judge Pfaff. I'm not too sure I agree with your remarks about "love conquers all" – I don't know what it is, but I am not only conquered, I am thoroughly domesticated. I wish my wife was here to hear that.

To wind up quickly, I would like to reveiw several announcements for the benefit of some who may not have been present. The Judicial Conference will resume its session at twelve noon, sharp, at a luncheon in the Redwood Room. The Prosecuting Attorneys' section, contrary to the program, will meet at twelve noon in the Lodge Ski Room for lunch. The Past President's luncheon is at the Ram; we have special arrangements for you there. This evening we will have a special table for the Past Presidents and their ladies, and we would ask that you use that table. I will remind the ladies of the luncheon at Trail Creek at twelve-thirty; the buses will be leaving between twelve and twelve-thirty.

Tom, we had better do some drawings. We have got three volumes or three works – "Handling Federal Estate Taxes, including gift taxes," donated by – (Everett Hofmeister, winner): The next is four volumes set, "Clark – Law of Receivers" donated by ___ W. H. Anderson Company. (Jim Bruce, winner). The next set is "Jones on Evidence," a four volume work, donated by Bancroft-Whitney. (Allen Derr, winner).

This concludes the session for today and I remind you that the general business session of the Bar convenes promptly at nine A. M. We have a lot of business to take care of and let's be here promptly.

(Saturday, July 15, 1961)

PRESIDENT J. BLAINE ANDERSON: Gentlemen, please come to order. Before proceeding with the regular order of business, there are several announcements.

I would like, for the record, and for the benefit of you gentlemen, to read a letter from Francis H. Wander, Court Reporter for the Seventh Judicial District. He specificially requested this be read to you gentlemen and included in the Bar proceedings for the benefit of the lawyers who are not present at this meeting; and the Official Reporter for this meeting is instructed to include this in the Bar proceedings. It is as follows:

"Dear President Anderson: The Idaho Shorthand Reporters Association desires to express to you and the other members of the Idaho State Bar its appreciation of the support you gave us during the last session of the Idaho Legislature, which session raised the salary of Idaho reporters from $6600 to $7200 per annum. All the surrounding states raised the salaries of reporters this year, so Idaho's action in this regard was of great importance in enabling our courts to secure and keep competent court reporters.

Almost every reporter in the State has expressed to me his or her admiration of the way the attorneys went to bat for the reporters. If any attorney in Idaho made any remarks or did any act not in accord with the idea of securing a raise for court reporters, such remark or act has not come to my attention.

We particularly commend the attorneys who were legislators for their endeavors on behalf of the reporters. We will never forget the efforts on our behalf of Senators Roden and Donart that last night in the Senate. It was most gratifying to see the abolition of party lines when it came to matters pertaining to court reporters, which is as it should be, since the reporter is the writing arm of the non-partisan judiciary. Governor (Attorney) Robert Smylie is also to be admired for some mighty clear thinking. Feeling that he could not sign the reporters' salary bill, as well as several other salary measures due to the rejection of a bill permitting certain other salaries to be raised, he nevertheless did not use the veto, but let them become law without his signature, while pointing out how all officials' salaries must be raised to enable the public to obtain and retain competent, high-type persons to fill the various officialships. Feeling keenly the loss of that one bill, a person of lesser stature might have vetoed the reporters' as well as the other salary measures just to show spite.

One thing occurred early in the campaign which was very unfortunate and is deeply regretted; that is, at first we misunderstood the direction of the Bar's support, interpreting it to be a failure of support whereas in fact it was support of an informal nature. This was due in its entirety to a failure of communications. This situation was soon clarified, and we apologize for having misinterpreted the attitude of the Bar.

The reporters of Idaho desire to give the highest type of service to Bench and Bar in securing justice for all citizens of Idaho. The Idaho Shorthand Reporters Association was formed to work toward that end. We hope you will call upon us for any assistance we may render in achieving that goal.

I close by repeating what I previously stated: thanks to the Bar and all the members thereof for your help and assistance during the last legislative session, because without your help our bill would have failed, and it would have become more difficult to keep up the quality of reporting in Idaho, which is the chief aim of our Association. Respectfully yours, IDAHO SHORTHAND REPORTERS ASSOCIATION, Francis H. Wander, Secretary."

I would also like to call to your attention to the fact that the Official Reporter for this session, Charles H. Vanderwood, is President of the Idaho Shorthand Reporters Association. We are happy to have you with us, Chick.

Gentlemen, I would also like to call to your attention at this time the Regional meeting of the American Bar Association, which will be held in Salt Lake City, Utah May 31st, through June 2nd, 1962. The Idaho State Bar and the Utah State Bar are the host States, which is being co-sponsored by Wyoming, Idaho, Nevada, Colorado, New Mexico and Arizona. I would ask that you give serious consideration and mark this on your calendar now and attend at that time. I know from participating in the initial planning meeting, about five weeks ago, that it will be an outstanding program which will be of great benefit to all lawyers.

In connection with continuing legal education, I would also call your attention to the Tax Institute at Idaho State College, which is sponsored by the Idaho State Bar, Department of Business Administration and the Idaho Certified Public Accountants, which will be held September 23rd and 24th on the campus at Idaho State College. I am sure this is well worth your attending; it is an excellent program.

Also announce for the record, for the business meeting this morning, Mr. Orval Hansen of Idaho Falls, has been appointed by me as Parliamentarian.

The President's Report has already been published in The Advocate, and I will not dwell upon that or give any of that here. I would merely like to take this opportunity to thank all of you gentlemen for the high honor bestowed upon me, the confidence which has been expressed and the wonderful courtesies and the fine work and cooperation that all of you have given, not only in the business of the Bar but socially. And my wife joins me. This is certainly the highlight of any lawyer's career.

The Secretary's Report, following the past custom, is published in The Advocate, as was the Treasurer's Report. We will not repeat them here.

Is the Judicial Conference ready to give its report?

JUDGE FABER F. TWAY: Judge Jack McQuade is going to make that report and he is not here yet.

PRESIDENT ANDERSON: Thank you, I will keep my eye open.

The Report of the Prosecuting Attorneys' Association. Gene Bush, are you ready?

MR. EUGENE BUSH: Thank you, Mister President. The Prosecuting Attorneys' section has met on three occasions during this convention. It's been an informative meeting. We want to express our appreciation at this time to the State Bar for allowing us the privilege of having our joint session with this convention, and we would like to express our appreciation to Professor George Bell, who in addition to being a speaker to the State Bar meeting has also assisted us at one of our sessions. We primarily discussed a variety of items that have been of concern to Prosecutors. We made plans for our next meeting. In addition we resolved, or at least informally agreed, pursuant to the recommendations of our speaker of yesterday, Mr. Cooper, that we would refrain from expressing our own personal opinion as to the guilt or innocence of defendants as soon as we were able to get defense counsel to join with us on that subject.

PRESIDENT J. BLAINE ANDERSON: At this time I will call upon Tom Miller to give you a special report concerning The Advocate.

MR. THOMAS A. MILLER: Thank you, Mister President. There has been a mass exodus from The Advocate staff very recently, and I don't want you to be mislead by circumstantial evidence. Some of these men have devoted three or four years to work on the staff, and they thought that the end of the fiscal year and the beginning of a new year with this annual meeting would be a good time to change. Bud Hagen, who has been an Associate Editor, will be the Editor for awhile; we hope that John Kugler will assist him as an Associate Editor. Jay Webb will be the Bar Foundation's Louella Parsons in preparing "The Brief Case," which is a kind of a gossip column in The Advocate. Now, the Judiciary is called upon and heartily invited at this time, upon the suggestion of our President, Blaine Anderson, to have their own column. He suggests a title and by-line "The Judiciary Speaks," and perhaps they would like to rotate the duty of preparing this column among the Supreme Court Judges and District Judges. I am not trying to speak with levity at this time. This is an invitation—something that I think should have been done a long time ago, to allow the Judges to make comments on things that are of interest and should be called to the attention of the Bar, and we hope that this can be implemented.

The Prosecuting Attorneys' section is also invited to sponsor a regular column in The Advocate, and I think I talked to Howard Adkins about that yesterday and he said he would go to work on it. The next matter is the "Obiter Dictum" column. This is one that has not received much notice, but we think that it has promise of attracting some interest, and we need about two or three writers for that. Anyone who is interested who thinks he has some ability in writing, together with some judgment, should apply to the Bar Foundation.

I don't believe that there is any more to say, but the Bar Foundation does sincerely invite and solicit the help or the suggestions of all the members of our Bar, because this little paper of ours, I think, goes a long way in making our big State, geographically, a little smaller. And at this time I would like to thank Chuck Blanton, who is the retiring Editor, for a tremendous job; voluntarily assuming the task of putting this paper together—together with Bud Hagen, who as I say will be our new Editor. To thank also Bill Langroise who has been preparing the Brief Case; Gene Thomas and Cal Dworshak, and all others who have worked on this paper. It is one of those jobs that involves a constant nagging problem of getting things together every month; and I think that these people deserve the hand of everyone in this audience for their work.

PRESIDENT J. BLAINE ANDERSON: The Board and myself personally join in that. These gentlemen have done a fine job for us. We hope that there will be some volunteers to take up the writing of the "Obiter Dictum" column. I think it is essential to the success of The Advocate.

There were several reports of committees that were not received in time for publication in The Advocate. In the absence of any member of the Committee on Unauthorized Practice—I don't believe—is Jim Cunningham here? (no response)

In the absence, I will read the report.

Report of Unauthorized Practice Committee:

"The following report of the activities of the Unauthorized Practice Committee of the Idaho State Bar for the year 1960-1961 is respectfully submitted:

"During this year another instance of use of simulated legal process by a collection agency was investigated. The owner of the agency was contacted by letter, and when the committee was subsequently assured by the agency that it would desist from such practices, the matter was closed.

"A complaint was received that a non-lawyer Justice of the Peace, in the Ada County area, had drawn a real estate contract. In accordance with a cooperative arrangement between the Third District Bar Association UPL Committee and the State UPL Committee, the matter was investigated by a representative of the Third District Committee. At the conclusion of the investigation, the Justice of the Peace was interviewed and warned. The investigator advised that he felt such warning would sufficiently dispose of the matter, and it was terminated on that basis.

"Some correspondence was conducted with the Farmers' Home Administration, at the instance of Peter B. Wilson, attorney of Bonners Ferry, concerning FHA's loan closing methods. There was some indication that FHA administration personnel might be practicing law in their closing procedures. Your committee received a letter of explanation and assurances from FHA, after which the file was closed.

"Your Committee issued two legal opinions during the year. The first had to do with whether or not foreclosure of trust deeds by the trustee named therein constituted the unauthorized practice of law. Our opinion answered this question in the affirmative. The second opinion covered the problem of insurance adjusters acting as 'claimants' representatives'. We issued an opinion that such activity by an insurance adjuster constituted unauthorized practice of law.

"A complaint was made that the secretary of an Idaho attorney was doing certain acts constituting the practice of law. The secretary and her employer were both interviewed, and based upon their assurances that the actions would not be repeated, the file was closed.

"As you know, the American Bar Association Unauthorized Practice Committee is preparing a work covering all the statutes in the various states of the Union, having to do with the unauthorized practice of law. Your committee was asked to review the Idaho section of this work, which was done, and certain corrections and recommendations were forwarded to the A. B. A. Committee by your state committee.

"At the request of the Idaho State Bar Commission, we investigated the Idaho activities of two Utah lawyers in soliciting doctors concerning tax savings plans being promoted in Utah and Idaho. The Utah lawyers were the subjects of prosecutive action by the Ethics Committee of the Utah State Bar Association, and the investigation was made, and our report submitted to you, in connection with your cooperative activities with the Utah Commission. Since the lawyers were resiDdents of the state of Utah, and since the matter was being handled by the Utah Bar Commission, no further action with respect to the Idaho activities was taken by your committee.

"Your committee received a request to meet with the Idaho State Realty Board to 'revise' the Receipt and Purchase Agreement then in use. We agreed to meet with them on a liaison basis, but felt that we should take no active part in drafting their form.

"A complaint with respect to the activities of Credit Bureaus, Inc., was investigated by Winston Churchill, attorney at Boise, Idaho, acting as a representative of the State UPL Committee. After contact with the parties involved, Mr. Churchill reported that the matter complained of had been taken care of and recommended no further action. The file was thereupon closed.

"Complaints were made that one Lewis E. Ostmann and one Charles E. Bishop are filing collection complaints in pro per. This matter is still under investigation."

This was Sherman Furey's part of the report. Sherman felt compelled to resign as chairman about three months ago. Thomas Feeney was appointed as Chairman to fill his unexpired term, and this report supplements Sherman Furey's.

"Supplementing Sherman Furey's report of June 14, 1961, concerning the activities of the State UPL Committee, I wish to report the following matters since my appointment as state chairman.

"There was referred to the committee an alleged incidence of unauthorized practice by the City Clerk of Mackay, Idaho. The matter was investigated by Hartley Kester. Mr. Kester's report is to the effect that the matter arose through misunderstanding, and he recommends that no action be taken. The recommendation is pending before the Commission.

(The Commission at its last meeting dismissed this matter.)

"The matter of an estate planning bulletin being distributed through a firm in Twin Falls, Idaho, is presently being investigated for the Committee by Mr. C. G. McIntyre of Twin Falls.

"The matter of joint venture agreements being prepared by an individual in Boise was submitted to Sumner Delana for investigation. After investigation, he recommended that no further action be taken, and the recommendation is presently pending before the Commission.

"At the request of the Commission, A. C. Kiser investigated an agreement purportedly prepared by a Boise real estate broker. After investigation, Mr. Kiser recommended that no further action be taken, and his recommendation was adopted by the Commission as well as this Committee.

"At the request of the Commission, we issued an opinion concerning a 'Legal Demand and Notice' being used by a Boise firm. In our opinion the notice constituted simulated legal process. No further action has been requested concerning this matter.

"Those constitute the matters handled by the Committee since my appointment.

"Anyone engaging in this work soon gets the feeling, I am sure, that for every tentacle which is lopped off by the Committee, two more immediately grow.

"I believe that all attorneys in the state should give serious consideration to the resolution proposed for the coming convention, that a general counsel be appointed by the Bar, in order to give greater continuity and efficiency to meet this problem. Very truly yours, Thomas W. Feeney."

PRESIDENT J. BLAINE ANDERSON: Has Judge McQuade come in yet? (no response). We will pass the Judicial Conference Report temporarily.

At this time I will call upon Merrill Gee, who has a special report of the Ethics Committee.

MR. MERRILL GEE: Mister President, our report has not been reduced to final form for several reasons. During the course of the year we have printed and published five opinions of the Legal Ethics Committee. Its three most important opinions have not been printed for the simple reason that they haven't been produced. The purpose of the problems raised by these opinions was the question of the ethics involved in a formation and use of a particular type of association by the lawyers. This question propounded so many facets that it was referred to the National Committee of the American Bar Association more than one year ago. We have heard nothing from that committee. My own suspicion is that they are probably awaiting the outcome of the present session of Congress and the fate of the Keogh-Utt bill, which as you know is a measure to permit professional people to defer taxes on a part of their income, which is diverted during their active years, into retirement program.

The second is a question with which we have had frequent reference, not only by the Unauthorized Practice Committee, but has been the foundation of several inquiries by attorneys throughout the State. It involves the relationship between attorneys and credit or collection agencies. Specifically questions have been asked this Committee as to the ethics of a resident attorney affixing his name to pleadings and other legal documents prepared by a non-resident attorney, or possibly prepared by the office staff of the credit or collection agency. It is merely referred to the attorney for signing and filing, after which any reference or inquiry concerning the status of the case as it is filed, is referred by the resident attorney directly to the office of the collection agency. A related practice that has been called to our attention is that of several firms permitting themselves to be listed as bonded by a national collection agency.

Our committee has labored like a mountain for several months, and we haven't even produced tracks, much less than a full-blown mouse, in the way of an opinion; and possibly the reason for it is that the older opinions of the American Bar Association Committee so thoroughly condemned this practice that our first opinion did likewise. Other members of the committee felt that we were cutting off our own hands, in that we were destroying the relationship that has been painfully built up during the past several years between attorneys and collection agencies and that if we adopted the opinion as it was originally drafted collection agencies would not use attorneys at all, but that in many instances they would fragment their claims and present them themselves in the small claims court, and would not even resort to the office of an attorney for any help.

The third question that is plaguing our committee is somewhat similarly related. It involves this question: Is it ethical and proper for an attorney to prepare a legal contract or a document at the request of a bank, an insurance company, or a real estate brokerage firm, in which the attorney has no direct contact with the clients themselves? We were tempted to answer that question rather rapidly, and we ran across the same problem, that if we do not work out a sensible approach to this we are going to find ourselves again forcing some people who are afraid of attorneys directly to practice law themselves, to force the firm initiating the inquiry to pull down a form book and draw up the contract themselves, or have it done entirely by a layman.

Our committee proposes a meeting after this meeting, at a convenient time and place, at which we hope to call upon and use the benefit of any observations and experiences of this body. We frankly admit that we can't come up with an answer which will solve the problem easily, and readily and which will be satisfactory to everyone. So we know that there are among you here as accumulated bodies of experience and opinions and thoughts on this subject that may be of some value. For that purpose, we would like to invite at this time any comments or observations on any of these problems.

I think the first one probably is beyond our scope, that of the Kittner type of association; we will have some probable discussions of something similar to that in one of the resolutions that is coming up. But since we have left it up to the American Bar Association, we don't propose to do anything with it, except to adopt their opinion.

With respect to the relationships between attorneys and credit bureaus or collection agencies, do we have any suggestions or observations along those lines as to how we can satisfactorily align ourselves with our own ethics and still maintain a reasonably happy relationship with these agencies and the persons whom they represent?

MR. FRANK CHALFANT, Jr.: You say it was the feeling of the committee that Collection Agencies would split their claims and file them in small claims court. How could this be done when they are prohibited by law from filing a claim?

MR. MERRILL GEE: Any person can file a claim in small claims court. It could be the secretary or any employee.

MR. FRANK CHALFANT, Jr.: It is not filed by a signed claim . . .

MR. MERRILL GEE: We appreciate that, and we recognize that this part of it will probably be violated. But nevertheless we know that that will very likely result, even that the Credit Agency will adopt some means for that or refer it back to the creditor himself for that filing, or presumably do so. We know, for example, that the Credit Agency will supply all of the forms that are necessary and then have the creditor actually file the form, or sign it and then the agency files it.

MR. FRANK CHALFANT, Jr.: That is possible.

MR. MERRILL GEE: It is not only possible, it is being done.

MR. FRANK CHALFANT, Jr.: Well, you do have comment—or in other words, you do know that the American Bar Association has been engaged for the last six or seven years in a struggle to obtain a new statement of principles with the Collection Agencies, and they have failed—while the Ethics Committee of the American Bar Association has approved such a statement of principles—that the Unauthorized Practice Committee of the American Bar Association has not approved it, and at the present time is still in a statutory—or do operate under a statement of principles that was drafted in 1937, and is probably twenty-four years old, quite out of date; and some of those—until that statement comes out, why we are going to have quite a few problems. I don't think we need worry, however, about offending these people.

MR. MERRILL GEE: No, we are not so concerned about offending them, as we are about maintaining our proper relationships and still giving the public

the protection and the service to which they are entitled. Do we have any other observations on this problem of Collection Agencies and the relationships between them and the attorneys?

MR. THOMAS A. MILLER: Is there any doubt in the committee's mind that it is improper for an attorney merely to lend his name to the pleadings?

MR. MERRILL GEE: None whatever about that particular aspect about it. Actually the question goes a little bit beyond that. Whether it is proper for a resident attorney, for example, to simply add his name to that of a nonresident attorney, who has sent the claim over without anything more, no other file—nothing—the local attorney knows nothing about the case. We happen to have a rule in our Idaho Rules of Civil Procedure—I think it is Rule 11—that the signing of a pleadings is a representation to the Court that the claim is well founded and to the best of the attorney's knowledge it is just and proper; and a local attorney who doesn't know anything more about it than what's been sent in a summary pleading, knows nothing about it. We feel quite strongly on that point, and yet, if we simply send it back we are possibly denying the claimant some kind of representation.

Any other comments on that point? We feel the more troublesome one represents the question of a request by a bank, an insurance company or a real estate brokerage firm to prepare a contract between two people who are utter strangers to the attorney, the attorney may never see them; yet these people are entitled to legal assistance at this stage, but our Canons of Ethics quite pointedly state that the relationship between attorney and client should be direct and personal or should not be directed in any manner or interferred with by a lay agency, whether it be a corporation or personal individual or anyone else. It was recognized that this practice is growing more prominent and frequent all the time. We recognize the needs of people who participate in contracts of this nature for legal advice and assistance. We recognize too, that if the attorney tells the real estate broker you have got to send your people into my office, that many times they will never come, nor will they go to any other attorney's office. We recognize that in many instances that people themselves, the parties to the contract, don't even know that an attorney has been asked to draft the contract, that normally the real estate agency does it themselves, but they run across some difficulties, so they ask for a lawyer to help. Is it ethical for the lawyers to do this? We recognize that adjustment firms will frequently ask an attorney to prepare a petition for the compromise of a disputed claim of a minor child, and the attorney will never go near the clients, and very frequently will not go near the Court, and yet he has prepared all those papers without knowing anything more about it than what the adjustment firm has represented to him. Have you had any experience or suggestions along those lines, gentlemen? We would certainly like to hear about it.

Yes, the answer is all quite candid. We are all doing it because—some of us are doing it—two members of the committee had to disqualify themselves from participating in this opinion. We had to get two outside members, and we can't get them together. Recognizing that we are all doing it, what are we going to do about it?

AN ATTORNEY: Forget it.

MR. SIDNEY SMITH: I think there has been, in a sense, a discussion of this problem by the Resolutions Committee that has been meeting, and in a part of the proposed Advisory Fee Schedule there is actually a breakdown of the proposed charge, or reasonable fee in the event that the matters are merely presented to you as an attorney, and you draw the contract, and as being a different rate than if you were to do all of the work and have the parties in. So that in a sense, I would say, and the Resolutions Committee has–I don't mean to get ahead of our Chairman–but we have adopted such a program and if it is acceptable to the group here it would seem to me that it would more or less make a decision in your problem.

MR. MERRILL GEE: It would certainly tend in that direction. Any other suggestions along that line, gentlemen? What we are doing essentially violates the spirit and even the letter of Canon 35 of our ethics. This Canon was adopted better than thirty years ago, and was preceded by an opinion of the American Bar Association that held forth for eighteen years. Now the question is, have circumstances changed to the point where we either want to amend our Canon of Ethics, or simply ignore it, or modify it in some respects to recognize the change in circumstances as it was written of this period.

Thank you very much, gentlemen.

PRESIDENT J. BLAINE ANDERSON: Thank you, Mr. Gee, I would like to commend you, and thank you and your committee for the work you have done this past year. You have turned out some fine opinions.

I will call upon Judge Jack McQuade. Is that correct, you are going to give the report of the Judicial Conference.

JUDGE JACK McQUADE: Report of the 1961 Annual Judicial Conference to the Idaho State Bar. The Conference of Supreme Court Justices and District Court Judges convened on the morning of July 13, 1961. All Supreme Court Justices and all District Judges were present, excepting only Justice Knudson and Judges McFarland and Hyatt, who were unable to attend. Judge Sutphen, retired, was with us during most of the proceedings.

Judge Tway and Judges Young and Towles reported to the Judicial Conference concerning the National–State Judges' organization activities.

Judge Tway urged that the best method of disposing of cases was that of the early setting of cases for trial. In that way settlements should be made earlier.

An Executive Committee has been designated to conduct the business of the Judiciary between judicial conferences.

Judge Tway voiced his opinion that the Committee on Uniform Rules is producing nothing worth while and should be reactivated as soon as possible.

He emphasized the importance and effectiveness of pretrial procedures and urged full exploitation of them by the trial judges in the best interests of justice.

A study of insanity as a criminal defense is being undertaken.

Work will be renewed upon jury instructions toward the end that they be conversational, simplified, unslanted, readily understandable, brief, impartial, fair and free from argument. It is anticipated that reversals due to faulty instructions may be sharply curtailed thereby. Backlogs may be reduced by this improvement in instructions.

The uniformity of local court rules of procedure throughout Idaho is strongly urged to the end that attorneys practicing in more than one court or district will not be at a disadvantage or suffer embarrassment.

The Conference reported that assignments of judges outside their own districts, in instances where the local judges are disqualified, have been very successfully worked out in many cases between the two judges without the necessity of burdening the Supreme Court, or any formality other than a phone call between the two judges and the making and filing of the order.

Supreme Court Justice and Coordinator, E. T. Knudson, submitted to the Judicial Conference his coordinator's report and recommendations. He said the Judges were cooperative whenever they were called on.

Justice Knudson called for a special report regarding court congestion. He also reports that the Supreme Court has assumed a strong role of supervision over the District Courts and therefore the Coordinator is more effectively discharging the responsibilities of the office of both the Legislature and the people of the State of Idaho.

The problem of redistricting was discussed at some length. Thank you.

PRESIDENT J. BLAINE ANDERSON: Thank you, Judge McQuade. I can assure everyone present that the Board of Commissioners is keenly aware of the problem on the uniformity in the local District Court rules, and I regret that nothing concrete has been produced during the past year. I feel confident that your new President, Marcus Ware, and the commission will do everything they can to produce something for you before the next time you meet.

At this time I will call upon Eugene Thomas for a report on the Economics of Law Practice.

MR. EUGENE THOMAS: Mister President, Members of the Commission, Members of the Idaho State Bar, I respectfully submit the report of the Committee on Economics of Law Practice.

This Committee of seven has actively studied and worked in the following areas during the past year:

Continuing revision of advisory fee schedule.

Survey of Lawyers' income.

Initial study of law office management—problems and possibilities for Idaho attorneys.

Study of special problems in collection and commercial practice.

Special studies in the fields of:

Corporate practice
Estate planning and probate.
Inferior courts practice.

Proposed revisions of the advisory fee schedule have been drawn and submitted to the Resolutions Committee of this Convention. It is anticipated that this Resolution will, in due course, come to the floor for action. Basically, we have found that the current schedule is lacking because of some ambiguities and because of the omission of certain matters upon which an advisory fee is needed. We have attempted to improve the schedule along these lines and,

excepting incidentally, the revisions proposed do not represent any particular changes in fees upward or downward.

There are a number of areas in which the schedule is not followed by some of the District Associations. These differences may be explained by local conditions, however, it is the consensus of this Committee that there is no justification for variations in fee schedules between the various Districts. Indeed, there is no reason for the Districts to maintain fee schedules other than the State advisory schedule unless it is a matter of covering areas of practice upon which the State schedule is silent. Even these special schedules should be strictly temporary and the matters there treated should be picked up from year to year as the State schedule is revised and kept current.

It is recognized that the schedule is being treated as a maximum by some attorneys. It is not so intended and we feel that efforts should be made to present a discussion and analysis of the State schedule to each of the District Bars at their local Bar meeting during the upcoming year. This will have an educational value and in addition will aid the State Bar in developing the most useful and equitable schedule possible.

In light of the very sizable task that is involved in the constant work with fees, including the special problems that are from time to time referred to the Committee wherein attorneys and clients have disagreements on this point, we strongly recommend that the subject of advisory fee schedule hereafter should be the assignment of a special standing committee of the Bar. We would think that a committee of about four members from the various parts of the State would handle this successfully, with perhaps three meetings during the year. We believe such a committee should have the responsibility for maintaining the schedule for its revision and for its distribution. We would recommend that a special bound looseleaf book be prepared, including the schedule in a conveniently indexed and usable form, specially designed for ready revision or supplementation, and that this be made available to all lawyers, preferably without charge.

The advisory fee committee, in our judgment, should be a permanent committee of this Bar.

We think that a special study group, perhaps as a sub-committee of the Committee on Economics of Law Practice, or perhaps a separate committee, should be established to make a careful study and analysis of the subject of commercial law and collection practice in Idaho. We have attempted to work in this area but find it is a full-time job. There are serious problems of ethics, unauthorized practice and economics involving common fee cutting. We would think that a one-year committee could do much in this area and would be well justified. We recommend that such a committee be established by the Commissioners.

During this year, we have particularly looked into the problem of fees in collection matters. We find that attorneys specializing in collection work consider the current schedule too high, rendering them unable to compete with collection agencies. We find on the other hand that attorneys not specializing in collections consider the present schedule conservative and possibly drastically out of line because of the low contingencies quoted. We have recommended adjustments in the schedule we believe will help. We anticipate that ultimately the select committee on commercial and collection practices will be able to recommend further improvements.

We have made arrangements for the survey of the Idaho Bar intended to determine the economic status of our membership. We have determined that this will best be done by taking advantage of the American Bar Association survey and questionnaire form. We therefore have not used the same questionnaire that was used two years ago. By availing ourselves of the American Bar Association facilities, we will have national comparison and a good deal more data which, in the judgment of the Committee, is preferable to the more simple procedure employed in the past. The membership will be receiving the questionnaire forms from the American Bar Association shortly.

In the fields of corporate practice, estate planning and probate and inferior courts practice, considerable work has been done and a good foundation laid for completion during the next year. We feel that these areas deserve special study and that selected materials should ultimately be distributed on them in a form readily inserted into the recommended fee schedule binder. These are not intended to be practice aids, but are strictly aimed at the economics of the practice in these areas. We hope to provide materials of real worth and, if these are well received in these fields, then would recommend that from year to year additional areas of practice be subjected to similar study and analysis.

The Committee has had the assistance and cooperation of many members of the Bar, for which it is appreciative. In particular, we wish to express our thanks to Mr. Robert Troxell, Mr. T. H. Eberle, and Mr. Frank Chalfant, Jr., of this Association, who have met with us and given us much of their time and excellent counsel.

Respectfully submitted,
COMMITTEE ON ECONOMICS OF LAW PRACTICE

PRESIDENT J. BLAINE ANDERSON: Thank you, Gene. This with other Committee reports will, of course, be filed with the Secretary and published in the annual proceedings.

Tom Miller just called to my attention that he neglected and that I neglected to extend our thanks and appreciation to Calvin Dworshak and to Eugene Thomas for carrying the burden of the "Obiter Dictum" column for the past several years in The Advocate. We do sincerely feel that these gentlemen did a fine job for us. I am sorry to see them retire from activities on The Advocate.

During the year the Commission was asked to consider several group insurance proposals, major medical and life insurance. Frankly, we didn't feel competent to give it the thorough study that was needed, and we appointed a committee of Boise lawyers, J. L. Eberle, Al. Kiser and Dale Clemons, to study the plans submitted. As you probably now are aware, the Mutual of Omaha plan was selected after very careful study, and is now available for you gentlemen.

We are pleased to have with us today—the past couple days—a most patient man, he is Hugh Higgins, Vice President in charge of the Association Group Insurance of Mutual of Omaha. He has been standing around on one foot or another waiting for me to find a place to get him in to say a few words. Hugh, would you come forward, please?

MR. HUGH HIGGINS: Thank you very much. Mister President; Board of Commissioners of the Idaho State Bar. I am delighted to appear before you.

I will not interpose myself before you long, as a hurdle between you and the coffee that is going to be served outside. I simply want to tell you how privileged and proud Mutual of Omaha is to receive the endorsement of the Board of Commissioners for this major medical and life insurance plan, and I can assure you that Mutual of Omaha is going to make the happy wedding—we are going out to solicit this plan, so that as quickly as possible it will be qualified, and those who, because of impairments presently may not participate, will receive this insurance. In that connection, I think we are as unique as you are unique in covering the entire State. We have a general agency in Pocatello, and we have district agents in Idaho Falls, Twin Falls, Boise, Lewiston and Moscow. Now, just to briefly touch on this thing—on this major medical program, with certainty I can tell you that during 1961 three and a half million families—insurance men are great fellows for statistics, as you know—will have medical bills which will amount to more than 20 per cent of their income. One million families will have medical expenses totalling more than half their annual income; and in many cases these expenses will exceed income. Improved medical techniques are necessarily expensive and often call for prolonged treatment involving specialists and nurses; medical, hospital and nursings bills exceeding ten thousand dollars are not uncommon. For severe and lingering illnesses and catastrophic accidents; and basic hospital claims, as you all know as no doubt you have had them—continue to become outdated and archaic, as costs of medical expense and treatment continue to rise. And so these fact that led your Board of Commissioners to the introduction of this major medical plan, and I would recommend to each and every one of you that you buy it, because illness and accident are inevitable. They happen to everyone; and just as inevitable as death, we are not going to labor long on the dull subject, but I can assure you that life insurance is an accepted need today, and many men are aware of a deficiency in a life insurance program. Increased taxes and inflation makes it increasingly difficult to build an adequate estate, and so I would recommend that each and every one of you, when our people come to call on you, that you will look with careful consideration toward the Life Insurance plan, because Life Insurance plan—this is a very, very reasonable plan we have offered you, a ten thousand dollar plan, believe me those dollar bills are not earmarked when the widow comes down and we send her the check. I hope you live to be a hundred and six, all of you; I hope that you never have to use your major medical plan, but if you do you can thank God and the Board of Commissioners that Mutual of Omaha is going to write the plan for you. Thank you very much.

PRESIDENT J. BLAINE ANDERSON: Thank you Hugh, and thanks to your yelping partner back there—and also thanks from the Board of Commissioners to Mr. Eberle, Mr. Kiser and Mr. Clemons for their work in this matter. They spent a lot of time on it.

(Short recess taken at this time.)

PRESIDENT J. BLAINE ANDERSON: The meeting will please come to order.

The next item of business is report of the Resolutions Committee. However, before calling upon the Chairman, Jay Bates, I will announce the ground rules. The Rules of the Board of Commissioners provide that as to motions and resolutions relating to or affecting statutes of the State of Idaho, Rules of

Court, Policies of the Idaho State Bar or the government of Local Bar Associations shall be determined on the last day of the annual meeting, unless the Board fixes a different date therefor. Each local Bar Association organized and existing as provided by Rules 186 and 187—and all those represented here are—shall be entitled to as many votes as there are bona fide residents, members of the Idaho State Bar within the territorial limits of such association at time of such annual meeting, and members of any local membership present shall cast the entire vote of such members voting. For your information, from the office of the Secretary: Shoshone County Bar at this meeting is entitled to 15 votes; Clearwater Bar Association, is entitled to 69 votes; Third District Bar Association, 187 votes; Fourth and Eleventh District, 83; Fifth District Bar Association, 69; Sixth District Bar Association, 19; Seventh District Bar Association, 51; Eighth District Bar Association, 42; Ninth District Bar Association, 43; the Twelfth District Bar Association, 17. Now there is one problem that has arisen, is there any other member of the Twelfth District present besides Jay Bates? (no response) In this connection, because of the expediency and necessity, the Chair rules, subject to your right of appeal of course, that Mr. Jay Bates, who is the only member of the Twelfth District may cast the ballot and vote for that District, even though he is the Chairman of the Resolutions Committee. Mr. Bates.

MR. JAY BATES: Mister President, Commissioners, members of the Idaho State Bar. The Resolutions Committee was composed of members Robert Robson, Ray McNichols, Joe Imhoff, Douglas Kramer, F. M. Bistline, Dwain Stufflebeam, James Schiller, Sidney Smith, Gilbert St. Clair, and William Kennedy. I wish to thank those members for their participation. Special thanks is given to Tom Miller and to Olive Scherer.

The Committee met and considered resolutions, which according to the rule, were submitted prior to June 1st. Additional resolutions were considered as having been reported out by a two-third majority vote of the committee.

I overlooked one member of the Committee, James Donart, I'm sorry Jim.

RESOLUTION NO. 1

"IT IS HEREBY RESOLVED By the Idaho State Bar that the following rules shall govern the submission, dissemination and consideration of Resolutions at the Annual Meeting of the Idaho State Bar for 1962 and subsequent years:

RULES GOVERNING PROPOSED RESOLUTIONS AT ANNUAL MEETINGS OF THE IDAHO STATE BAR

1. All Resolutions to be proposed for consideration at an Annual Meeting of the Idaho State Bar shall be submitted in writing, on or before May 15th next preceding the date of the Annual Meeting, to the Chairman of the Resolutions Committee appointed by the Board of Commissioners of the Idaho State Bar, with a copy thereof to the Secretary of the Idaho State Bar.

2. A copy of each such Resolution shall be forwarded forthwith by the Secretary to the President of each District Bar Association for consideration at District Bar Association meetings to be held preceding the Annual Meeting.

3. No Resolution shall be submitted to the members for consideration and action at an Annual Meeting, unless the same has been submitted to the

Chairman of the Resolutions Committee and to the Secretary within the time hereinbefore provided, except upon the affirmative vote of two-thirds of the members of the Resolutions Committee, or, if such Resolution shall be proposed from the floor, by a two-thirds vote of the members present and voting.

4. Each and every Resolution submitted to the Resolutions Committee of the Idaho State Bar which proposes or would require legislative action, must have attached to it, or be accompanied by, a proposed draft of the bills or legislative resolutions necessary to effect the proposed statutory or constitutional changes; there shall also be attached to or accompanying each copy of such resolution, a statement or brief giving the reasons or arguments for the proposed changes and citations of authority in support thereof. The Resolutions Committee may disregard any resolution submitted to it without such proposed draft, or without such statement or brief. The Resolutions Committee shall deliver all such proposed drafts and statements or briefs to the Board of Commissioners or Secretary of the Idaho State Bar following the Annual Meeting.

5. Any member making a motion from the floor at the Annual Meeting for a resolution (or for an amendment to a Resolution), which is adopted, and which proposes or would require legislative action, must, within thirty days following such Annual Meeting, submit to the Board or Secretary, a proposed draft of the bills or legislative resolutions necessary to effect the proposed statutory or constitutional changes, together with a statement or brief giving the reasons or arguments for the proposed changes and citations of authority in support thereof.

6. The Board or Secretary shall deliver to the Chairman of the Legislative Committee of the Idaho State Bar, or to such other Committee as the Board shall determine, a copy of each resolution adopted at an Annual Meeting of the Idaho State Bar and the proposed drafts of legislative bills or resolutions, and statements or briefs in support thereof, pertaining to such resolution.

7. The Board of Commissioners of the Idaho State Bar may, prior to any session of the Idaho State Legislature, authorize the preparation, printing and dissemination of pamphlets, brochures or other printed materials containing the legislative proposals of the the Idaho State Bar, together with statistics and other information in support thereof.

8. All resolutions submitted in accordance with these rules on or before May 15th of each year, shall be printed in THE ADVOCATE or a supplement thereof, or otherwise duplicated, and distributed to members of the Idaho State Bar no later than June 5th of each year.

9. A copy of these Rules shall be printed in THE ADVOCATE or mailed to each member of the Idaho State Bar, during the month of April preceding each annual meeting, and at such other times as the Board of Commissioners shall direct."

Mister President, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: Do I hear a second.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It has been moved and seconded that this resolution be adopted. Any discussion.

VOICE: Question.

PRESIDENT J. BLAINE ANDERSON: All in favor signify by voting aye. Opposed–(none). Motion is carried.

MR. JAY BATES: Resolution No. 2.

RESOLUTION NO. 2

"WHEREAS, the integrated Bar of the State of Idaho at its regular and annual convention July 9, 10 and 11, 1959, duly adopted Resolution No. 12 establishing an advisory fee schedule, and did thereafter at convention July 7, 8 and 9, 1960, by Resolution No. 2 presented to that convention, amend the same, and

"WHEREAS, a committee of the Idaho State Bar on the economics of the practice of law 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 as amended 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 shall be, and the same hereby is, amended as follows:

IV. U.S. AND STATE DISTRICT COURTS.

Add:

Pre-trial Conference:

Preparation for and attendance with written memo	$100.00
Without written memo	$ 50.00

V. JUSTICE AND PROBATE COURTS.

Delete all provisions now in effect and add in their stead:

Appearance	$ 25.00
Trial per diem:	
Without jury	75.00
With jury	100.00
Preliminary hearing, per day	100.00
Drunk driving case, with or without jury per day, minimum of	150.00
Insanity proceeding (except by court appointment) Minimum of	75.00
Youth Rehabilitation Act, appearance and hearing –Time charge with minimum of	100.00
Appeals, perfecting	75.00

VI. PROBATE COURT, following "PROBATE OF ESTATE"

Add:

Probate of Estate:

Additional charges shall be made on an hourly basis for extraordinary services or when estates must be probated over an extended period of time.

Short Form Procedures:

Determination of heirship after two years and community property upon wife dying intestate, one-fourth (¼) of regular fee with minimum of	200.00
Inheritance Tax Determination proceedings. Time charge with a minimum of	150.00

X. COLLECTIONS.

Delete all provisions now in effect and add in their stead:

Wholesale Accounts:

On first $500.00	33 1/3%
On next $1,000.00	25 %
All over $1,500.00	20 %

Retail Accounts:

On first $100.00	40 %
On all over $100.00	33 1/3%

Suit fee on retail and wholesale accounts:

10% of claim but not less than $25.00; in Probate Court or $50.00 in District Court.

In areas where justification exists, such as: members of the Bar competing with lay collection agencies for commercial collections business, and there is a large volume of commercial claims, forwarded or otherwise, the current Commercial Law League of America rates may be applied. All fees are in addition to costs advanced and are net to the local attorney.

XI. OFFICE BUSINESS.*

Delete all provisions now in effect and add in their stead:

Corporations:	
Organization of–Time charge with minimum	350.00
Compliance with State and Federal Blue Sky Laws	Time charge
Dissolution	200.00
Amendment of Articles	100.00
Merger	250.00
Annual Meetings and Minutes	75.00
Qualifying to do business in another state	75.00
Deed	10.00
Bill of Sale	10.00
Assignment of Contract and Deed	15.00
Affidavit	10.00
Lease:	
Residential	30.00
Business	40.00
Farm	25.00
Power of Attorney:	
Special	20.00
General	15.00
Depositions when not connected with case	50.00
Leins, preparation and filing	15.00
Mortgage and note	25.00
Oral advice (including telephonic)	3.00
Contracts of Sale:	
Real estate, with deeds, escrow, etc. where all information is furnished	40.00
Real estate, where attorney handles the entire transaction	50.00
Personal property–Same as real estate	
Bulk sale compliance	25.00

Wills:	
Simple	20.00
Simple Joint	30.00

*All advisory fees set forth in this section are subject to the qualification that the same shall consider time expended and in no event shall the fee be less than that set forth herinabove excepting hardship, charity or other extraordinary cases.
Basically, office practice should be conducted on an hourly basis, with consideration for the value, use and purpose of the instrument involved, and the accompanying risks incident thereto.

XII. COSTS AND EXPENSES.
Delete the portion now appearing in Section XI denominated "Costs and Expenses" and substitute the following:
All actual costs and expenses are in addition to the foregoing fees and should be obtained in advance as a retainer. This includes actual expenses of travel, meals and lodging, as well as all other actual, reasonable expenses.

XII:
Nothing herein contained shall prevent an attorney from doing work or lending assistance free of charge where the client is unable to pay the fee nor shall anything herein be construed to affect private contracts for general retainers.

XIV:
Nothing in the foregoing schedule shall prohibit an attorney from taking cases upon a contingent fee basis, providing, however, this shall not extend to divorce actions.

"AND BE IT FURTHER RESOLVED, that a copy of the advisory fee schedule as amended shall be mailed to every member of the Bar in the State of Idaho in a form readily and conveniently usable by practicing attorneys, and the Commissioners of the integrated Bar of the State of Idaho are hereby directed and authorized to cause the same to be compiled and distributed in compliance herewith."
Mister President, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: Is there a second.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: Any discussion or debate. (no response) All in favor of the resolution signify by voting aye.

VOICE: Just a minute, please—Is that resolution to adopt the entire fee schedule as amended?

PRESIDENT J. BLAINE ANDERSON: The advisory fee schedule has been previously adopted, and has been previously amended, and this is an amendment to the amended advisory fee schedule.

VOICE: Then—In other words, any discussion now would be in respect to the amendment?

PRESIDENT J. BLAINE ANDERSON: Would be in respect to this amendment.

VOICE: Well, I would be opposed to reducing the schedule that we now have in respect to collections. I think we have apologized, generally speaking for the lawyers, for what we charge for a long period of time—it has taken a long time since we got from the ten or twelve percent that we used to get—collection whether it be a $100.00 or a $1,000.00 up to—at least what we use up in our County, which I think is 50% of the first $40.00, and take a flat one-third of everything over that, unless we sue—And, although there has been some criticism by forwarders, I think that fellows who do any collections —collection work up there, and I think everybody does a little—I mean we like to call ourselves collection lawyers—We find it is non-remunerative—and all we have done is just call on a lot of business, and never made any money on it anyway; and I think as soon as we take a step downward, and reducing it, all we are going to do is start wrestling with those agencies that send claims in the past—The average collection agency in this State takes things on a flat fifty percent anyway, and I think we are making a mistake to start downward, when it has taken a long time to raise the standard, and I don't think we should take a step backward at all.

PRESIDENT J. BLAINE ANDERSON: Any further discussion. (no response) All in favor of the resolution No. 2, signify by saying aye. Opposed (none) Motion is carried.

MR. JAY BATES: Resolution No. 3.

RESOLUTION NO. 3

"WHEREAS, the Committee on the Reform of Courts of the Idaho State Bar has recommended in its report made to the President and membership of the Idaho State Bar on the 8th day of May, 1961, that a study should be made to determine the feasibility of consolidating probate courts and justices of the peace into county courts, assuming that family law jurisdiction will be transferred to district courts.

"NOW, THEREFORE, BE IT RESOLVED by the integrated Bar of the State of Idaho, duly assembled in convention at Sun Valley, Idaho, July 13 through 15, 1961, that the several District Bar Associations of the integrated Bar of the State of Idaho be and the same are hereby urged to make a study to determine the feasibility of consolidating Probate Courts and Justices of the Peace in the counties in their respective districts into County Courts with the same jurisdiction as said Probate and Justice Courts now have except as to family law jurisdiction, and be it further

"RESOLVED, That the said Districts make a report of their findings and recommendations in respect to said studies to the President of integrated Bar of the State of Idaho on or before the 1st day of May, 1962, 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."

Mister Chairman, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: You have heard the resolution, is there a second.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: Is there any discussion or debate. (no response) All in favor of the resolution No. 3 signify by saying aye. Opposed (none) Resolution No. 3 is adopted.

MR. JAY BATES: Resolution No. 4.

RESOLUTION NO. 4

"WHEREAS, the Reform of Courts Committee of the Idaho State Bar Association has submitted a Second Amended Report which does consist of recommendations, resolutions, model statutes and model rules of procedure all concerning inferior court reform, district court reform, and uniform traffic regulations, and other matters:

"WHEREAS, the said committee is to be commended for its able report and diligent efforts:

"WHEREAS, the said report and resolutions were not considered by a majority of the district bar associations prior to the 1961 Annual Meeting of the Idaho State Bar Association;

"WHEREAS, possible valid objections to portions of the report were encountered by some of the district bar associations considering the same;

"WHEREAS, the matter of court reform and uniform traffic rules are of great import to the people of the State of Idaho and to this Association;

"WHEREAS, any recommendations would need enactment by the Legislature of the State of Idaho, which will not convene until 1963 for regular session;

"NOW, THEREFORE, BE IT RESOLVED by the Integrated Bar of the State of Idaho duly assembled in convention at Sun Valley, Idaho, July 15th, 1961, that the Reform of Courts Committee of the Idaho State Bar Association be continued with membership being provided by appointment by Commissioners of the Integrated Bar of the State of Idaho, and that such committee be requested to have a member or members of its committee meet with each district bar association in the ensuing fiscal year to explain their said Second Amended Report and to consider possible changes or amendments in their report and to timely submit the same report or amended report as the committee might deem fitting and proper, with such submission of a report to be made in sufficent time for any resolutions to be acted upon by the various district bar associations prior to the 1962 Annual Meeting of the Idaho State Bar Association."

Mister Chairman, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: You have heard the resolution, is there a second.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: Any discussion or debate. All in favor of Resolution No. 4 signify by saying aye. Those opposed (none). Resolution No. 4 is adopted.

MR. JAY BATES: Resolution No. 5.

RESOLUTION NO. 5

"WHEREAS, several constructive resolutions have been duly submitted to the regularly constituted Resolutions Committee of the 1961 Convention of the

Idaho State Bar Association, which resolutions may be generally summarized as follows:

1. A resolution calling for the employment of a full time General Counsel and/or Secretary by the Association, for the purpose, among others, of investigating and prosecuting unauthorized practice of law.

2. A resolution calling for an increased membership on the Bar Commission.

3. A resolution calling for an increase in the annual license fee for lawyers in Idaho;

"AND WHEREAS, it has become evident that additional funds will be necessary to carry out the present programs and activities of the association; and

"WHEREAS, such resolutions, if adopted, would require legislative enactments; and

"WHEREAS, the Legislature of the State of Idaho will not be regularly in session until January, 1963, after the regular 1962 Convention of this Association; and

"WHEREAS, no study appears to have been made as to the additional funds which will actually be required for the continuation of existing programs and the implementing of the proposed programs;

"WHEREFORE, your Resolutions Committee, on its own motion, proposes the following Resolution as a substitute for the proposed resolutions above referred to, to-wit:

"BE IT RESOLVED that no action be taken on the proposed resolutions concerning additional license fees, employment of a full time Counsel and increasing the membership of the Bar Commission at this meeting; and

"BE IT FURTHER RESOLVED that the Commissioners of the Idaho State Bar Association are hereby directed to undertake a study of the cost, value and feasibility of employing a full time counsel for this association and of increasing the membership of the Commission as well as the requirement for additional funds to carry out the regular and necessary other activities of the Commission and this association; and

"BE IT FURTHER RESOLVED that said Commission is also directed to advise the membership of the association through the official publication of the association, or otherwise, of the results of such studies and the recommendations of the Commission; and that such information be so published at a time sufficiently in advance of the 1962 Convention of this Association so that the membership may be able to properly consider the adoption and funding of the programs herein referred to."

Mister President, I move the adoption of this Resolution No. 5.

PRESIDENT J. BLAINE ANDERSON: You have heard Resolution No. 5, is there a second.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: Is there any discussion or debate. All of those in favor of Resolution No. 5 signify by saying aye. Those opposed, no. Resolution No. 5 is adopted.

MR. JAY BATES: Resolution No. 6.

RESOLUTION NO. 6

"BE IT RESOLVED that pending the realignment of the courts as proposed by former resolutions of the State Bar Association that the Justice and Probate Courts civil jurisdiction be raised to $1,000.00 plus interest and costs."

Mister Chairman, I move the adoption of Resolution No. 6.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It has been moved and seconded; is there any debate or discussion? Now this calls for legislative action and therefore it will be necessary to vote by districts.

Shoshone County Bar Association.

VOICE: 15 votes, aye.

PRESIDENT J. BLAINE ANDERSON: Clearwater Bar Association.

VOICE: The Clearwater Bar Association is instructed to vote, aye.

PRESIDENT J. BLAINE ANDERSON: Third District Bar Association.

VOICE: One moment, please—We pass.

PRESIDENT J. BLAINE ANDERSON: You pass—Fourth and Eleventh District.

VOICE: Aye.

PRESIDENT J. BLAINE ANDERSON: Votes 83 votes aye, is this correct.

VOICE: Aye.

PRESIDENT J. BLAINE ANDERSON: Fifth District Bar Association, 69 votes.

MR. F. M. BISTLINE: The Fifth District, 68 aye, and 1 no.

PRESIDENT J. BLAINE ANDERSON: 68 aye, and 1 no. Sixth District Bar Association, 19 votes.

MR. H. WM. FURCHNER: Sixth District votes aye.

PRESIDENT J. BLAINE ANDERSON: Seventh District Bar Association, 51 votes.

VOICE: Seventh District votes no.

PRESIDENT J. BLAINE ANDERSON: 51 votes no. Eighth District Bar Association, 42 votes.

VOICE: Eighth District Bar Association is instructed to vote no; 42 votes.

PRESIDENT J. BLAINE ANDERSON: 42 votes, no. Ninth District Bar Association, 43 votes.

MR. JACK VOSHELL: Ninth District votes 43 yes.

PRESIDENT J. BLAINE ANDERSON: 43 yes. Twelfth District Bar Association 17 votes.

MR. JAY BATES: Twelfth District Bar Association votes 17 votes aye.

PRESIDENT J. BLAINE ANDERSON: 17 votes aye. Third District Bar Association.

MR. EBERLE: Third District Bar Association, 187 votes in opposition to the motion. No, in other words.

PRESIDENT J. BLAINE ANDERSON: 314 votes aye; 281 no. The Resolution No. 6 is adopted.

MR. ED BENOIT: This Resolution is immaterial as far as I am concerned, but it seems to me if the Committee is going to propose a resolution raising this to $1,000, there ought to be some serious thought–

PRESIDENT J. BLAINE ANDERSON: This may be a valid comment and objection, Mr. Benoit, but the resolution has been adopted and I believe you are out of order.

MR. JAY BATES: Resolution No. 7.

RESOLUTION NO. 7

"WHEREAS, The Idaho State Bar recognizes the need for a complete revision of new Rules of Criminal Procedure for the Courts of the State of Idaho,

"AND WHEREAS, The Idaho State Bar at its annual meeting in 1958, adopted a resolution for the research, study and adoption of new Rules of Criminal Procedure to be financed by the Idaho Code Commission,

"AND WHEREAS, it now appears that the Idaho Code Commission does not now have, and will not in the foreseeable future have sufficient funds to finance such work,

"AND WHEREAS, Senate Bill 149 was introduced at the 1961 session of the Idaho Legislature to appropriate $8,000 to the Idaho Supreme Court for the above mentioned purposes, which bill failed passage,

"NOW THEREFORE, BE IT RESOLVED That the Idaho State Bar does hereby reaffirm its determination of the desirability of obtaining new Rules of Criminal Procedure for the Courts of the State of Idaho, and does hereby urge and request that the Idaho Legislature at its next session, appropriate sufficient funds to provide for a study, editorial work and adoption of such new rules.

"AND, BE IT FURTHER RESOLVED, That all members of the Idaho State Bar are hereby urged to give all possible support and assistance to the enactment of such legislation.

"AND, BE IT FURTHER RESOLVED, That the Committee to be appointed by the Supreme Court or Bar Commission to make the study shall not consist of more than one-third prosecuting attorneys."

Mister Chairman, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: It has been moved that the resolution be adopted, do I hear a second.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: Any discussion or debate.

MR. EUGENE THOMAS: Mister President, I think this is a bad resolution. The need in this area for complete revision and complete study is in the field of substantive law, where our sentences are not consistent, where some of our statues are pretty bad. In the field of procedure, it appears to me after having been connected with the Prosecutors' Association, that the need for procedural revision can be done by a series of revision of statutes.

I think if we are going to spend money in criminal code study, it should be on the substantive law end. I believe that at least two-thirds of the procedural procedures have already been drafted. It is my judgment that this resolution does not cope with the real problem of criminal law in Idaho.

PRESIDENT J. BLAINE ANDERSON: Any further discussion or debate.

JUSTICE E. B. SMITH: Would you kindly refer, or refresh my memory as to the body to whom the appropriation is proposed to be made. Is that through the Supreme Court?

PRESIDENT J. BLAINE ANDERSON: It merely calls for an appropriation for this purpose as I read it and understand it, Justice Smith, and does not specifiy which agency of our Government.

JUSTICE E. B. SMITH: Well, I had this in mind that in the Bill that was drafted at the last Legislature, the appropriation went through the Supreme Court, upon the theory that the Code Commission did not have the money; and we felt that that was one of the objections to the Bill. That the Supreme Court appropriations, together with the District Court appropriations, together with the library appropriations and the Uniform Code Commission appropriations totaled something over $900,000. Whereas, with the Code Commission, its appropriations or its requests for appropriations are generally small in comparison, very small; and judging by past experience, when we were instrumental in getting an appropriation for the printing of the new Code, and the continuing Code Commission, and for the pocket supplements, and also for the study having to do with Uniform Rules of Civil Precedures, all through the Code Commission, I felt at the time and I still feel that any appropriation that should go other than through the Code Commission would be an error, in our judgment. And I would like to hear from Representative Higer in that regard, because he was in the Legislature. I might be erroneous in my impression, but that is the impression I got, but I believe that the resolution as it is drafted perhaps will not raise the objection as the Bill that was drafted. I wonder if I could hear from Representative Higer.

MR. C. H. HIGER: Mister President, could I have the specific question.

JUSTICE E. B. SMITH: The specific question is this, Mr. Higer: Wouldn't it be very much better with reference to the appropriation for this study, that it go direct to the Code Commission, rather than be mixed up with various Court appropriations?

MR. C. H. HIGER: Mister President and Judge Smith, I would say this that the greater the appropriation that is directed to the Supreme Court, the greater the judicial appropriation before the House. For that reason I think the appropriation should be directed to the Code Commission; I agree with you on that score. Now, with regard to the Supreme Court joining with them –but I still think the appropriation should go to the Code Commission; I think that would be proper.

MR. THOMAS A. MILLER: Knowing something about the–I think Judge Doyle talked about judicial mental processes–knowing something about the mental processes of the Board of Commissioners, I am sure they will take to heart the edifying discussion that has gone on and follow it out and see that the money, if any, is appropriated to the proper agency.

PRESIDENT J. BLAINE ANDERSON: Is there any further discussion.

JUSTICE E. B. SMITH: So far as this resolution is concerned, I can speak for the members of the Court that we do favor a study with reference to the new criminal rules–Rules of Criminal Procedure.

PRESIDENT J. BLAINE ANDERSON: Thank you Justice Smith. Is there any further discussion.

MR. LLOYD WEBB: Admitting my ignorance on criminal procedures in general, it seems to me that any procedural set up that allows a man the chance of being arrested the day before, or day after the term of court, to set there for three or four months, as often happens, at least in Twin Falls County, before he is even informed against. I would like to see some sort of a change.

MR. EUGENE THOMAS: I have no quarrel with your statement, but I doubt that supports the argument that the entire appropriation is needed for complete study of the field of criminal procedures in the State of Idaho.

PRESIDENT J. BLAINE ANDERSON: Any further discussion or debate.

VOICE: Question.

PRESIDENT J. BLAINE ANDERSON: This is a matter calling for legislative action; vote will be by districts. Shoshone Bar Association, 15 votes.

VOICE: 15 votes aye.

PRESIDENT J. BLAINE ANDERSON: Clearwater Bar Association, 69 votes.

VOICE: Clearwater Bar Association is instructed to cast 69 votes aye.

PRESIDENT J. BLAINE ANDERSON: Third District Bar Association, 187 votes.

VOICE: Pass.

PRESIDENT J. BLAINE ANDERSON: Fourth and Eleventh District Bar Association, 83 votes.

VOICE: Aye.

PRESIDENT J. BLAINE ANDERSON: 83 votes aye. Fifth District Bar Association, 69 votes.

MR. F. M. BISTLINE: The Fifth District Bar Association passes.

PRESIDENT J. BLAINE ANDERSON: Sixth District Bar Association, 19 votes.

MR. H. WM. FURCHNER: 19 votes aye.

PRESIDENT J. BLAINE ANDERSON: 19 votes aye. Seventh District Bar Association, 51 votes.

VOICE: Cast 51 votes aye.

PRESIDENT J. BLAINE ANDERSON: Eighth District Bar Association, 42 votes.

VOICE: 42 votes aye.

PRESIDENT J. BLAINE ANDERSON: Ninth District Bar Association, 43 votes.

MR. JACK VOSHELL: 43 votes no.

PRESIDENT J. BLAINE ANDERSON: Twelfth District Bar Association, 17 votes.

MR. JAY BATES: Twelfth District Bar Association votes 17 votes aye.

PRESIDENT J. BLAINE ANDERSON: 17 votes aye. Returning now to the Third District Bar Association.

VOICE: 187 votes aye.

PRESIDENT J. BLAINE ANDERSON: Fifth District Bar Association.

MR. F. M. BISTLINE: The Fifth District is still—

PRESIDENT J. BLAINE ANDERSON: Still caucusing?

MR. F. M. BISTLINE: 69 votes no for the Fifth District Bar Association.

PRESIDENT J. BLAINE ANDERSON: 69 votes no. The vote is 483 aye, 112 no. Resolution No. 7 is adopted.

MR. JAY BATES: Resolution No. 8.

RESOLUTION NO. 8

"BE IT RESOLVED That the State Bar Commission appoint a committee to investigate the desirability to the legal profession of legislation that would permit the practice of law through some form of corporate organization designed to afford lawyers the tax advantages of pension plans and other deferred compensation agreements that are now available to corporate employers generally."

Mister Chairman, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: You have heard the resolution, is there a second?

MR. LOUIS RACINE, Jr.: Does that read "a study?"

PRESIDENT J. BLAINE ANDERSON: A study.

MR. LOUIS F. RACINE, Jr.: Is there any term as to when the report is to be made of this study.

PRESIDENT J. BLAINE ANDERSON: The resolution No. 8 is silent on that point, Mr. Racine.

MR. LOUIS F. RACINE, Jr.: And I suppose necessarily the next report will be made at the next annual meeting.

PRESIDENT J. BLAINE ANDERSON: I would presume so.

MR. LOUIS F. RACINE, Jr.: Well—

PRESIDENT J. BLAINE ANDERSON: Thank you, Mr. Racine. I there a second?

VOICE: Second.

MR. ED. BENOIT: If a bill were drawn along those lines just to help the lawyers, I think we might have a little trouble. It seems to me this an opportunity to draw upon medical, dental and CPA groups, and draft a bill along the lines of all professions. I think we would have more success in the Legislature. I might say I am strongly in favor of the resolution, but more interested in what we can do in the Legislature with these.

PRESIDENT J. BLAINE ANDERSON: Do you make this in the form of a motion, or just a discussion, Mr. Benoit?

MR. ED. BENOIT: Just a discussion.

PRESIDENT J. BLAINE ANDERSON: Any further discussion or debate.

MR. LOUIS F. RACINE, Jr.: I think, Mister Chairman, there should be some discussion on this, and I think the membership should have some knowledge as to actually what is being contemplated. I think perhaps a number of you here are familiar with the activity in a large number of States throughout the country in this regard, and legislation which has been pending in Congress for some time. Actually I am not concerned with any long discussion, and don't think a long study is necessary. I think most of the current publications apprise the profession as to what is going on in this field, and most of us probably are somewhat familiar with it. As I understand there are about eight States which have now passed this legislation authorizing corporate or associations-type legislation which allows lawyers to take a percent of their income and put it in a pension trust fund for later retirement use, and which is non-taxable during the period of placing this amount in the fund. A number of States currently have legislation pending for passage. Some few, I think have failed to pass it, but I would like to hear a little general discussion as to whether the group here generally feel that there is any question as to ethics or any problems we will get into as to ethics in authorizing this practice in corporate or associations.

PRESIDENT J. BLAINE ANDERSON: Gentlemen, is there any such discussion?

MR. A. A. MERRILL: Mister Chairman, I am wondering if any thought has been given as to a resolution passing on foreign corporations.

PRESIDENT J. BLAINE ANDERSON: I cannot answer that. Was that discussed in the Resolutions Committee?

MR. JAY BATES: Yes.

PRESIDENT J. BLAINE ANDERSON: About foreign corporations?

MR. LOUIS F. RACINE, Jr.: I think my question is directed more particularly to the Resolutions Committee. I assume there was some discussion in the Resolutions Committee, and some specific questions arose as to which you delegated the necessity to make study on the proposition, rather than just do something more concrete. Now, I can believe these long term studies sometimes kill everything and I am wondering if we are not going in that direction on this.

MR. JAY BATES: We felt that inasmuch as a year's pasage of time would actually enable us as a Bar Association as a whole to study this proposition, and perhaps to invite people who are acquainted with tax problems and with pension and profit sharing procedures, to discuss this question with the local bar districts so that each individual in his district bar association would be thoroughly acquainted with the proposition prior to any active action by this group as a whole.

MR. LEONARD KINGSFORD: In furtherance of the discussion perhaps, there is a question which occurs to me, and I am wondering if the Committee –the Resolutions Committee–might be able to inform the group here whether they have done any thinking on this: It appears to me that if this type of legislation is proposed and passed there are several possible forms of corporate

organizations that might be used in connection with proposed trust funds or retired income; individual lawyers or firms might be permitted to incorporate for that particular purpose for handling trust funds; local bar associations might be permitted to incorporate for the purpose of handling the trust funds, or the State Bar Association might be permitted to incorporate for the purpose of handling the trust funds. Has there been any particular thought or discussion as to the method, or the best method, of handling the proposed trust fund?

PRESIDENT J. BLAINE ANDERSON: Perhaps I can answer that, I did attend the meeting. The Resolutions Committee did not attempt to undertake a study of this entire problem. The resolution merely calls for a study, Mr. Kingsford, and certainly did not get into this, and I think it was not proper for them to do so.

MR. LEONARD KINGSFORD: Are you aware of whether or not there has been a study of this problem in any of the other States where this type of legislation has been proposed, I know there has been some proposals?

PRESIDENT J. BLAINE ANDERSON: I am not personally aware of any, I have never studied, I do not know whether any members of the Resolutions Committee have.

MR. JAY BATES: We anticipated that the committee appointed to make a study of this matter would solicit materials from States who enacted such legislation, in order to give us some type of foundation and frame-work to build on. At least we explored the possibility.

PRESIDENT J. BLAINE ANDERSON: I think it might be observed properly, too, that in all of these acts that authorize incorporation are preserved --are very studiously preserved--the personal, confidential, professional and financial relationship between the individual stockholder or attorney and the client.

Is there any futher discussion?

VOICE: Question.

PRESIDENT J. BLAINE ANDERSON: This--keep in mind--calls only for a study and not legislative action. All of those in favor signify by saying aye.

JUSTICE E. B. SMITH: Just one little reminder to the audience here--the report of the committee on this subject matter indicated that the American Bar Association had this matter under study. That is right isn't it, Mister Chairman?

PRESIDENT J. BLAINE ANDERSON: Yes, that is correct.

JUSTICE E. B. SMITH: And also as to whatever way that this committee recommends in the future would also depend, perhaps in a very large measure, or perhaps in toto, as to how the Ethics Committee of the American Bar Association might ultimate approve upon the subject matter. Am I again correct, Mister Chairman?

PRESIDENT J. BLAINE ANDERSON: You are correct, and certainly the committee that is appointed will--

JUSTICE E. B. SMITH: I just wanted to be sure to throw that out to the assembly here that those matters are under consideration in that direction.

PRESIDENT J. BLAINE ANDERSON: All in favor signify by saying aye. Those opposed. The Chair rules that the Resolution is adopted.

MR. JAY BATES: Resolution No. 9.

RESOLUTION NO. 9

"BE IT RESOLVED that the State Bar Commission appoint a committee for the purpose of studying proposed changes in the Rules of Civil Procedure and the Idaho Code concerning the filing and recording of judgments which proposed rule changes appear to have been instituted and recommended either by the recorders and auditors of this state or the abstract and title companies of this state."

Mister Chairman, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: You have heard Resolution No. 9, is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: Any discussion or debate? (no response). All in favor signify by saying aye. Those opposed. (none) Resolution No. 9 is adopted.

MR. JAY BATES: Resolution No. 10.

RESOLUTION NO. 10

"WHEREAS, Section 15-1834, Idaho Code, provides that all proceedings by guardians, concerning sales of property, shall be had and made as required by the provisions relating to estates of decedents; and,

"WHEREAS, Section 15-1835, Idaho Code, contains provisions foreign and inconsistent with the provisions of Section 15-1834 and the Probate Code, and this has led to questions;

"NOW, THEREFORE, BE IT RESOLVED that the Idaho State Bar in convention assembled at Sun Valley on July 15, 1961, does respectfully urge the Legislature of the State of Idaho that it repeal Section 15-1835, Idaho Code; and

"BE IT FURTHER RESOLVED that the Board of Commissioners of the Idaho State Bar, through its designated committee, take action to carry into effect this resolution."

Mister Chairman, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: You have heard Resolution No. 10, is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It has been moved and seconded, is there any discussion or debate? (no response) This calls for legislative action, it will be necessary again to vote by districts. Shoshone County Bar Association, 15 votes.

VOICE: 15 votes aye.

PRESIDENT J. BLAINE ANDERSON: Clearwater Bar Association, 69 votes.

VOICE: 69 votes aye.

PRESIDENT J. BLAINE ANDERSON: Third District Bar Association.

VOICE: Pass.

PRESIDENT J. BLAINE ANDERSON: Fourth and Eleventh District Bar Association.

VOICE: It passes for now.

PRESIDENT J. BLAINE ANDERSON: Fifth District Bar Association.

MR. F. M. BISTLINE: 69 votes aye.

PRESIDENT J. BLAINE ANDERSON: 69 votes aye. Sixth District Bar Association.

MR. H. WM. FURCHNER: Sixth District votes 19 votes aye.

PRESIDENT J. BLAINE ANDERSON: 19 votes aye. Seventh District Bar Association, 51 votes.

VOICE: Pass.

PRESIDENT J. BLAINE ANDERSON: Eighth District Bar Association, 42 votes.

VOICE: 42 votes aye.

PRESIDENT J. BLAINE ANDERSON: 42 votes aye. Ninth District Bar Association, 43 votes.

VOICE: Vote aye.

PRESIDENT J. BLAINE ANDERSON: 43 votes aye. Twelfth District Bar Association, 17 votes.

MR. JAY BATES: Twelfth District votes 17 votes aye.

PRESIDENT J. BLAINE ANDERSON: 17 votes aye. Third District Bar Association.

VOICE: 187 votes aye.

PRESIDENT J. BLAINE ANDERSON: Fourth and Eleventh District, 83 votes.

VOICE: 83 votes aye.

PRESIDENT J. BLAINE ANDERSON: Seventh District.

VOICE: 51 votes aye.

PRESIDENT J. BLAINE ANDERSON: 51 votes aye. The Resolution No. 10 is unanimously adopted.

MR. JAY BATES: Resolution No. 11.

RESOLUTION NO. 11

"WHEREAS, New York and other states have enacted into law a requirement that before any legal document be entitled to be recorded it must have endorsed thereon the name of the scrivener of the document; and,

"WHEREAS, such a law may tend to prevent or discourage the drafting of legal documents by laymen;

"NOW, THEREFORE, BE IT RESOLVED, that the district bar associations in Idaho commence and complete a study of the advisability of proposing similar legislation in Idaho, and report their conclusions and recommendations to the Board of Commissioners of the Idaho State Bar, on or before May 1, 1962."

Mister Chairman, I move the adoption of this resolution.

PRESIDENT J. BLAINE ANDERSON: You have heard the Resolution No. 11, is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It's been seconded; any discussion or debate. It merely calls for study. All those in favor of the resolution signify by saying aye. Those opposed. The resolution is adopted.

MR. JAY BATES: Resolution No. 12.

RESOLUTION NO. 12

"BE IT RESOLVED That the State Bar Association go on record as favoring the elimination of printed transcripts in the Court of Appeals of the Ninth Circuit in the interest of economy to litigants."

Mister Chairman, I move the adoption of Resolution No. 12.

PRESIDENT J. BLAINE ANDERSON: You have heard the resolution, is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: Any discussion or debate. All those in favor of Resolution No. 12 signify by saying aye. Those opposed. Resolution No. 12 is adopted.

MR. JAY BATES: Resolution No. 13.

RESOLUTION NO. 13

"BE IT RESOLVED, That the Idaho State Bar Commission appoint a committee to study the advisability of meeting with the State Board of Education, the Superintendent of Public Instruction, and any other in authority in the State of Idaho with regard to matters of education with a view to requiring the teaching of a course in the FUNDAMENTALS OF LAW below the high school level and more advanced courses in high schools and colleges."

Mister Chairman, I move the adoption of Resolution No. 13.

PRESIDENT J. BLAINE ANDERSON: You have heard the resolution, is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It has been moved and seconded. Is there any discussion or debate. This calls for the appointment of a Committee and study. All of those in favor of the resolution signify by saying aye. Those opposed.

I don't know whether we have got volume or numbers. The chair is in doubt. All those—Tom, would you do a head count? All those in favor of adoption of Resolution No. 13 will please rise. Those in favor.—All of those opposed to Resolution No. 13. The chair is no longer in doubt. Resolution No. 13 fails.

MR. JAY BATES: Resolution No. 14.

RESOLUTION NO. 14

"BE IT RESOLVED that the Idaho State Bar extend to the Honorable Robert E. Smylie, the Honorable Stanley M. Doyle, the Honorable Robert

Alton Pfaff, the Honorable George M. Bell, the Honorable Grant Cooper, and the Honorable John A. Carver, Jr., our most sincere thanks and grateful appreciation for honoring us by their personal appearance at our annual meeting and delivering to us their inspiring, interesting and instructive addresses."

Mister Chairman, I move the adoption of Resolution No. 14.

PRESIDENT J. BLAINE ANDERSON: Is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: All in favor signify by saying aye. Opposed. Unanimously passed and adopted.

MR. JAY BATES: Resolution No. 15.

RESOLUTION NO. 15

"BE IT RESOLVED, that the Idaho State Bar express its appreciation to the Commissioners and Officers of the Bar who have served during the past year, for their contribution of time and effort, which has resulted in accomplishment of an active and productive year of Bar activities."

Mister Chairman, I move the adoption of Resolution No. 15.

PRESIDENT J. BLAINE ANDERSON: Is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It has been moved and seconded, all in favor signify by saying aye. Those opposed. Resolution No. 15 is adopted.

MR. JAY BATES: Resolution No. 16.

RESOLUTION NO. 16

"WHEREAS, The Bobbs-Merrill Company, Inc., the Bender-Moss Company, Voter Publishing Company, Commerce Clearing House, Inc., West Publishing Company, Bancroft-Whitney Company, and The Caxton Printers, Ltd., have generously donated various legal publications for door prizes at this annual meeting;

"BE IT RESOLVED, that the Idaho State Bar extend its thanks and appreciation to these companies for their generous prizes which contributed to the interest of those attending this meeting."

Mister Chairman, I move the adoption of Resolution No. 16.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It has been moved and seconded; all of those in favor signify by saying aye. Those opposed. Resolution No. 16 is adopted.

MR. JAY BATES: Resolution No. 17.

RESOLUTION NO. 17

"BE IT RESOLVED, that the Idaho State Bar express its sincere and grateful appreciation to the employees of Sun Valley for their efficient and courteous service to the members of the Idaho State Bar, their wives and guests, during the annual meeting at Sun Valley."

Mister Chairman, I move the adoption of Resolution No. 17.

PRESIDENT J. BLAINE ANDERSON: Is there a second?

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: All those in favor of the resolution signify by saying aye. Those opposed. The Resolution has been adopted.

MR. JAY BATES: Resolution No. 18.

RESOLUTION NO. 18

"WHEREAS, the Committee on Reform of Courts of the Idaho State Bar has recommended in its report made to the President and membership of the Idaho State Bar on the 8th day of May, 1961, that the Thirty-sixth session of the Legislature of the State of Idaho should be commended for its action in passing House Joint Resolution No. 10 relating to proposed amendments to the Judicial Article of the Constitution of 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 13th through 15th, 1961, that the Thirty-sixth session of the Legislature of the State of Idaho be and is hereby commended for its action in passing House Joint Resolution No. 10 relating to proposed amendments to the Judicial Article of the Constitution of the State of Idaho which if favored by the people would permit the Legislature to improve the lower court systems of the State of Idaho, and be it further

"RESOLVED, That copies of this resolution be transmitted to the President of the Senate and the Speaker of the House of said session."

Mister Chairman, I move the adoption of Resolution No. 18.

VOICE: Second.

PRESIDENT J. BLAINE ANDERSON: It has been moved and seconded; any discussion or debate.

VOICE: Mister President, I would like to say one thing on that. I had the privilege of carrying that Bill on the Senate floor; it was one of the three constitutional amendments, and we received opposition there from some of our own attorneys; and I sincerely hope that at our next annual meeting the Bar will go on record supporting this. We will be wasting our time in Resolutions on Court Reform, unless we pass that constitutional amendment. And I sincerely hope that the Idaho State Bar Association not only goes on record supporting it, but also goes out and actively works for it. Because if we don't pass that constitutional amendment we are wasting our time passing the Resolution for Court Reform.

PRESIDENT J. BLAINE ANDERSON: The integrated Bar has gone on record supporting it already; I, too, join you in hoping that we all work for it.

Any other discussion or debate? All of those in favor of Resolution No. 18, signify by saying aye. Those opposed, no. Resolution No. 18 is adopted.

MR. JAY BATES: Mister Chairman, that completes the reading of the Resolutions presented to the Committee.

PRESIDENT J. BLAINE ANDERSON: Thank you very much, Jay Bates, and thanks to all the members of the Resolutions Committtee.

That concludes the old business. Is there any new business to be brought up at this time?

MR. F. M. BISTLINE: Mister President, I have a question. We, of the Fifth District submitted a Resolution for the employment of a full-time general counsel; and I was under the impression that one of the Resolutions we adopted covers this. But after we voted or went into this matter of incoporating, which likewise was in another Resolution, I am wondering if we haven't adequately covered it in the resolution with regard to the proposition of raising the annual license fees.

PRESIDENT J. BLAINE ANDERSON: I think it was covered. It was Resolution No. 5, I think, as you indicate, Mr. Bistline. There was a resolution calling for a full-time general counsel and/or secretary by the Association; there was a resolution calling for increased membership in the Bar Commission; there was a resolution calling for increase in the annual license fee for lawyers in Idaho. This Resolution No. 5 directed the Commission to make a study of these three subjects, and was adopted.

MR. F. M. BISTLINE: Thank you.

MR. C. H. HIGER: I would like to suggest that in consideration of legislation that might be proposed at the 1962 Bar Convention, as far as the ensuing Legislature is concerned, legislation should be presented, I think, at least to someone that knows some of the things that is behind opposition to Bills. And I think at least some of us fellows should be consulted with regard to any proposed legislation. Because lots of times we can point out pitfalls to the person that is questioning it. So I would suggest in consideration at our next Bar meeting of proposed legislation that is going to be submitted that it at least be submitted to some of us who are on the firing line, so to speak, so you can get our views of what opposition, if any, it will meet when it is presented to the Legislature.

PRESIDENT J. BLAINE ANDERSON: Thank you very much for the suggestion, Mr. Higer, and I am sure we have tried to follow it in the past, and perhaps we haven't been too effective; we have tried to appoint—and past Commissions have, too, gentlemen on the Legislative Committee who have had experience; at least one or more of them have had experience in the Legislature.

Anything else, gentlemen? We will proceed with the drawings, we have quite a few books left. One copy of "How to Evaluate and Settle Personal Injury Cases," contributed by Bobbs-Merrill. Merrill Gee (winner). It's a certificate, Mr. Gee, and you will receive it in due course.

"Modern Criminal Procedure," by Moreland, also donated by Bobbs-Merrill Company. This is by certificate and it will be mailed out to you. Leonard Kingsford (winner).

We are drawing for the "Law on Conflicts of Law," contributed also by Bobbs-Merrill. This is by a certificate also, and will be mailed out to the winner. Mr. C. H. Higer (winner).

We are drawing for a three-volume set, "Model Business Corporations—Annotated," contributed by West Publishing Company. Buck Hiller (winner).

We are drawing for a one volume CCH on Federal Taxes. Gideon Oppenheimer (winner).

We are now drawing for two volumes of Idaho Reports, 62 and 63, donated by Caxton Printers, Caldwell, containing the Rules of Court. Ray McNichols (winner).

We are now drawing for another three-volume "Model Business Corporations Act," donated by West Publishing Company. F. C. Scheneberger (winner).

That concludes the drawings. Gentlemen, it is my pleasure at this time to introduce to all of you your new President, Marcus J. Ware of Lewiston, Idaho.

PRESIDENT, MARCUS J. WARE: I thank you, Blaine, and members of the Bar. You know, to follow in the shoes of a man like Blaine Anderson, with whom I have worked diligently for the last two years, is really going to be quite a job. As I read over "Vox Presidenti" in the last issue of the Advocate, I concluded that there was nothing further to be done except to carry on some unfinished business stated therein, Blaine—but after listening to the subject and context of some of the resolutions adopted here today, I am rather convinced that the Commission still has a lot ahead of it. And we will do our best, I can assure, in behalf of Glenn Coughlan and Wes Merrill, to carry on, not only in behalf of the Bar, but in collaboration with the Bench, and maintain the position of the Idaho State Bar Association and its significance, not only to its members, but as a part of the judicial and legal machinery in existence in this State. I know you are anxious to get out on the golf course and to get to lunch, or get back to your wife or sweetheart. I will ask you, is there any more business?

MR. GILBERT ST. CLAIR: I think we ought to have a standing ovation to Blaine for his excellent accomplishments to this Bar as President. (At this time a standing ovation for President J. Blaine Anderson.)

PRESIDENT MARCUS J. WARE: I will entertain a motion for adjournment of this thirty-fifth session of the Idaho State Bar Association.

VOICE: I move we adjourn.

PRESIDENT MARCUS J. WARE: All those in favor signify by saying aye. We are adjourned, gentlemen.

APPENDIX

President's Report

From a review of the President's Reports from the past issues of the Proceedings of the Idaho State Bar it is readily apparent that all have approached the "exhausted" stage with a definite feeling of mixed emotions. On the one hand nostalgia and humbleness, and yet redoubled pride in the profession coupled with a feeling of relief on the other. Now, to be cut off from those rewarding relationships of the past three or more years of active Bar work makes one feel cast into oblivion before his time. Such is the sentimentality that surrounds the parting. Thankfully, it is not a permanent parting.

Since the beginning of the policy of reporting annual committee reports in The Advocate, the frequent news items concerning committee and Commission activities, and the column allowed to the President each month in The Advocate, there seems to be little left to a President to report upon in his final summation except the singing of a swan song. This is as it should be. It points up the fact that we are gradually welding a stronger organization with a wide dissemination of information among the lawyers so that no longer is there any real need for a detailed report.

There is one prerogative that a President may have and that is to draw upon his experiences and make recommendations for future courses of action. With all humility, I would respectfully suggest to all lawyers and to all who may serve on the Board of Commissioners in the next few ensuing years, the following:

1. Continue with the high standards which I found existing with respect to admissions to the bar, i.e., education, morality and sound character.

2. Never abandon compliance, in letter and spirit, with the principles of the National Conference of Bar Examiners with respect to the administration of bar examinations.

3. Deal with disciplinary problems as I found them being dealt with; speedily, in secrecy (until made a matter of record in the Supreme Court) and with all of the impartiality that it is possible for a human being to muster. But ever with the two-fold thought—protect the lawyer when he is entitled to protection but be not hesitant to discipline where the fault is apparent.

4. Never fail in the duty to the people of this state to take an active part in government but especially the improvement of the administration of justice. The soundness of our present judicial system depends not only upon the competent men who hold the high honor but upon the profession as such to see that sound men continue to be elected and appointed.

5. Do not abandon the truth of the fact that the public must be protected from the unauthorized practice of law. It has been demonstrated many times that the maintenance and preservation of a free and independent body of lawyers, qualified and screened as to education and character, subject to the canons of ethics and the summary discipline of the courts, and dedicated with a single-minded devotion and undivided loyalty to the client's interests, is absolutely essential to the freedoms we enjoy.

6. The Continuing Legal Education program which has been established over the past several years under the able guidance of Paul Ennis and the C. L. E. committee should be supported by every lawyer. It is your duty to yourself and your client to keep your legal education at its maximum.

7. Public relations should be continued but it is my belief that the emphasis should be from the grass-roots level with over-all programs being secondary and supplemental thereto.

8. Continuing study of the economics of the law practice should be made. Emphasis upon lawyer adherence bears attention. Other areas that merit attention are law office management and the use of time- and labor-saving devices.

9. When the American Bar Association completes its program for nation-wide education in the public schools to combat Communist ideology, we should stand ready to take the lead along with educators and other interested groups.

10. In view of legislation of recent years creating new judicial districts and new judgeships, serious attention should be given to a state-wide program of re-districting the judicial districts.

11. The organized Bar should not fail in its duty to the people in this State in offering to the legislature at the next session a comprehensive reform of inferior courts. If we fail in this duty, others less well informed on the subject will assume the task.

12. The organized Bar, in cooperation with the Supreme Court and the District Courts, should publish as soon as possible (and preferably, I think, in a continuing loose-leaf form) an up-to-date revision of Rules of the Supreme Court, Uniform Rules of the District Courts, Rules of the Board of Commissioners, and should include therein the opinions of the Professional Ethics Committee and the Advisory Fee Schedule.

13. Consideration should also be given to the enactment of statutory authority for permitting corporate law practice but with absolute care not to destroy the historic, traditional and essential role of the lawyer in his relationships to the public and to his client.

14. A full-time Secretary and full- or part-time General Counsel for the organized Bar seems to be inevitable. The demands of the lawyers and public and private organizations for increased activity on the part of the Bar within its proper fields of endeavor is evident with each passing year. If we are to meet the demand we will need full-time personnel.

15. The membership should consider an increase in Bar license fees in order to take care of the demand for increased activity. We are among the lowest in the Nation.

16. Last, but certainly not least, thorough consideration be given to changing from a Bar which is integrated by legislative sanction to one which is integrated by Supreme Court rule under its inherent rule-making power.

This enumeration is not meant to be exclusive but is intended only as suggestions of the avenues and endeavors we must continue with or undertake if we are to remain abreast of our duties to the profession and the public in general.

It would be impossible to express by name appreciation to all who have rendered service to the Bar and to the Commission during the past year. I do not recall of a single instance when a lawyer was asked to render service and declined to do so. This unselfish devotion to duty has made ours a strong organized Bar and it will make it even stronger in the years to come. If the past year has been a successful one for the Idaho State Bar, it is only because of the unstinted efforts of all of you. My humble appreciation goes to one and all.

As predicted by Clay V. Spear, Tom Miller has very ably filled the secretaryship. Tom and Mrs. Olive Scherer, his stenographer, have been able to handle the myriad details with dispatch and efficiency I would not have thought possible with a staff twice the size.

Under the able and enthusiastic leadership of Marcus J. Ware, Glenn Coughlan and whomever the new commissioner may be, I am confident the Idaho Bar will continue to grow in stature and usefulness to the profession and the public.

J. BLAINE ANDERSON, President,
Idaho State Bar

SECRETARY'S REPORT

It is customary for the Secretary to prepare an annual report covering the financial condition of the Idaho State Bar, membership statistics, bar examinations, disciplinary matters, and other matters. It is generally printed in THE ADVOCATE or read at the Annual Meeting, and then included in the appendix of the Proceedings for permanent reference. The following report covers the period from June 1, 1960, to June 1, 1961.

Financial Report

BAR COMMISSION FUND:

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 Bar Commission Fund, a dedicated fund subject to State appropriation and control:

EXPENDITURES
June 1, 1960 to June 1, 1961

Personal Services	$ 6,215.90
Travel Expense	6,614.28
Other Miscellaneous Expense	4,349.93
Capital Outlay	38.95
Social Security Transfer of Funds	186.00
General Fund Transfer	373.02
TOTAL	$17,778.00

RECEIPTS, BALANCE

Balance on June 1, 1960	$18,245.51
Receipts, June 1, 1960 to June 1, 1961	15,970.98
Sub-Total	$34,216.49
Less Expense	17,778.08
BALANCE, June 1, 1961	$16,438.41

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, meals and lodging for out-of-town travel of the Commissioners, the Secretary and other persons engaged in bar activities, including Bar committees and attorneys required to travel in connection with discipline investigations and prosecutions. It also covers a portion of the travel expense of the Idaho State Bar Delegate attending meetings of the House of Delegates of the A.B.A.

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

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 Bar Commission Fund by the State Auditor's Office for bookkeeping and auditing services rendered to the Bar.

Total expenditures for the year ending June 1, 1961, were $2,085.56 less than in the preceding year. This sum will be reduced considerably when claims now outstanding are processed. The increases and decreases (decreases are bold type) were as follows:

Personal Services	**$ 190.10**
Travel Expense	**1,281.27**
Other Expense	**307.55**
Capital Outlay	**307.55**
Refunds	**50.00**
Social Security Transfer	9.49
General Fund Transfer	87.11

Receipts were $67.53 more than for the preceding year.

TRUST FUND:

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

Cash on deposit, The Idaho First National Bank, Boise, as of June 1, 1961	$1,476.58
Adjustment for sums presently due	801.00
ADJUSTED TOTAL	$2,277.58

This compares with $1,775.07 in said account on June 1, 1960.

Membership

BY DIVISIONS:

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

	1960	*1961*	*Change*
Northern Division	129	126	2.3% decrease
Western Division	309	321	3.9% increase
Eastern Division	150	148	1.3% decrease
Military	2	2	0
Out-of-State	26	21	1. % decrease
Totals	616	618	

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

BY LOCAL BAR ASSOCIATIONS:

	1960	*1961*	*Change*
Shoshone County Bar Ass'n.	16	15	6.3% decrease
Clearwater Bar Ass'n.	66	69	4.5% increase
Third District Bar Ass'n.	179	187	4.5% increase
Fourth and Eleventh District Bar Association	81	83	2.5% increase
Fifth District Bar Ass'n.	74	69	6.8% decrease
Sixth District Bar Ass'n.	20	19	5.0% decrease
Seventh District Bar Ass'n.	49	51	4.1% increase
Eighth District Bar Ass'n.	47	42	10.6% decrease
Ninth District Bar Ass'n.	38	43	13.1% increase
Twelfth District Bar Ass'n.	18	17	5.6% decrease
Sub-Totals	588	595	
Out-of-State	26	21	
Military	2	2	
Totals	616	618	

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

BAR EXAMINATIONS

There was only one bar examination given since the last Annual Meeting, that one in September, 1960, at Boise. Twenty applicants took the examination and all passed, which is unusual but not without precedent. Three of the applicants had previously been admitted to practice law in other jurisdictions. There was only one application filed for the April, 1961, bar examination, and that application was withdrawn and no examination was given.

DISCIPLINE MATTERS

Formal proceedings. On June 1, 1960, the date of the last Secretary's report, there were formal proceedings pending before the Board against two attorneys; both attorneys were subsequently suspended by the Supreme Court on the findings, conclusions and recommendations of the Board of Commissioners sitting as the Committee on Discipline. The Board had made its recommendations for suspension in another formal discipline matter, prior to June 1, 1960, and the Court subsequently suspended the attorney. (He has since been reinstated upon application and payment of over $400.00 in costs expended during the proceedings.)

Four new formal proceedings have been instituted since the last report. In one, the attorney has been suspended for six months, with reinstatement conditioned upon application and proof of restitution to good moral character, and restitution to all persons damaged by his misconduct. In another, the Supreme Court has entered an order for indefinite suspension pending further proceedings before the Board, which are nearly completed. In the third matter, the complaining witness voluntarily absented himself from the state on the date of the hearing, whereupon the Board dismissed the complaint. The fourth matter involved the persistent failure of an attorney to pay his 1960 lawyers' license fee. The Board required an appearance before it by the accused attorney, at which time it issued a reprimand to the attorney and then, the license fee and penalty having been paid, dismissed the matter.

Informal Proceedings. The phrase "informal proceedings" refers to Board action on anything from a letter from a client complaining about a fee charged by his attorney to a verified complaint on its face charging an attorney with serious misconduct. The reason they remain "informal" is that the Board determines from its own investigation, or that of an investigating committee appointed by it, that there are no grounds on which to base formal disciplinary proceedings against the attorney and have a formal hearing; or, in a few rare cases, it appears that although the attorney has acted improperly, it was through inadvertance and was not of a serious nature.

There were nine informal discipline matters pending on June 1, 1960, eight of which have been investigated and dismissed. The other one remains pending, since many of the same issues would be resolved in a civil suit brought by the complainant against the attorney. Twenty-six additional informal complaints have been received by the Board since June 1, 1960; twenty-two have been investigated and considered by the Board and dismissed, and four are still pending.

DEATHS OF ATTORNEYS:

Since the last Secretary's report, we have learned of the following attorneys' deaths:

Name	*Place of Death*	*Date of Death*	*Adm. to Bar*
Johnston, Kendrick	Reno, Nevada	April 15, 1960	Dec. 15, 1920
Bandelin, O. J.	Sandpoint, Idaho	July 29, 1960	Mar. 26, 1913
McFadden, Geo. Robt.	Plummer, Idaho	Sept. 23, 1960	Feb. 12, 1940
Potts, C. H.	Coeur d'Alene, Ida	Oct. 23, 1960	Apr. 2, 1908
Merrill, Alma L.	Pocatello, Idaho	Feb. 20, 1960	Dec. 2, 1912
Stacy, Wright A.	Boise, Idaho	March 4, 1961	Feb. 3, 1917
Smith, Thomas Wm.	Rexburg, Idaho	March 19, 1961	Jan. 31, 1912

Report of Reform of Courts Committee

The Committee on Reform of Courts met in the courtroom of the Ada County Probate Court at Boise, Idaho, on May 6, 1961. Members of the committee who were present are as follows:

W. E. Smith, Chairman, Boise, Idaho
Grant Ambrose, Meridian, Idaho
Hon. James Towles, Wallace, Idaho
George Redford, Rupert, Idaho
Eugene Bush, Idaho Falls, Idaho
Edward Aschenbrenner, Caldwell, Idaho
Frank Chalfant, Jr., Boise, Idaho

The committee discussed the possible reforms which might be appropriate for the inferior courts in the event of the passage of the amendments to the Judicial Article on the Constitution of the State of Idaho as proposed by House Joint Resolution No. 10 of the Thirty-sixth Session of the Legislature of the State of Idaho.

After considerable discussion, the committee voted to report its recommendations as follows:

1. That the various district bar associations make a study in their own respective areas to determine whether probate courts and justice of the peace courts should be combined and consolidated into single county courts assuming that all family law jurisdiction is transferred to the district courts in the near future. (Family law jurisdiction refers to juvenile delinquents, adoptions, child dependency and neglect, guardianships and commitment of mentally ill persons.)

The committee recommended further that the various local associations should report their findings and recommendations to the President of the bar before the 1962 convention.

2. That the Thirty-sixth session of the Legislature of the State of Idaho be commended by the Bar for passing House Joint Resolution No. 10 relating to amending the Judicial Article of the Constitution of the State of Idaho so that the legislature can make improvements in our inferior court systems.

Appropriate resolutions have been prepared and are attached.

The committee moves the adoption of the said proposed resolutions by the next convention of the integrated Bar.

W. E. Smith, *Chairman*

Resolution

WHEREAS, the Committee on Reform of Courts of the Idaho State Bar has recommended in its report made to the President and membership of the Idaho State Bar on the 8th day of May, 1961, that the Thirty-sixth session of the Legislature of the State of Idaho should be commended for its action in passing House Joint Resolution No. 10 relating to proposed amendments to the Judicial Article of the Constitution of 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 13 through

15, 1961, that the Thirty-sixth session of the Legislature of the State of Idaho be and is hereby commended for its action in passing House Joint Resolution No. 10 relating to proposed amendments to the Judicial Article of the Constitution of the State of Idaho which if favored by the people would permit the Legislature to improve the lower court systems of the State of Idaho, and be it further

RESOLVED, That copies of this resolution be transmitted to the President of the Senate and the Speaker of the House of said session.

Report of Continuing Legal Education Committee

With reference to your letter requesting a report from the Committee on Continuing Legal Education, there is very little to say.

The Committee has been inactive since September of last year. Prior to that time the Committee had the responsibility of organizing and carrying through the Annual Institutes. However, with the Fall Institute in Moscow, Paul Ennis, Director of Continuing Legal Education, took charge.

Under the new management, it is contemplated that an Annual Institute, based on the same topic, will be held at Moscow and two other cities. Perhaps of the greatest importance under the new arrangement, a book devoted to some phase of Idaho law or procedure will be published annually.

The new program, under Paul's direction, got off to an auspicious start, with the publication of a volume, which will approximate 400 pages, on "Administration of Estates in Idaho."

This publication and others to be prepared each year in the future meet an obvious need. The first has been very well received by the bar.

The function of the Committee, for the present at least, is confined to furnishing the Director with advice on such matters as he may request. After some further experience with the annual publications and the Institutes related thereto, the Committee will be in a position to evaluate whether any additional activities concerning continuing legal education are warranted or desirable. A more detailed report will be presented by the Director at the Annual Meeting (covering the Institutes and the mentioned publication).

HERBERT A. BERMAN, *Chairman*

Report of Administrative Procedure Act Committee

Your committee, consisting of Alfred C. Cordon, L. Charles Johnson and Callis Caldwell, wrote a bill to provide for an Administrative Procedure Act, for submission to the 1961 legislature of Idaho. This bill was approved by the State Bar at its 1960 annual meeting at Sun Valley, with an amendment to provide as follows: "Practice before any agency shall be limited to persons licensed to practice law in the State of Idaho."

Your chairman served as Senate Attorney for the 1961 legislature. The State Bar legislative committee, Jack Hawley, Chairman, considered said bill and amended and requested your chairman to re-write the bill and embody said amendment for introduction in the Senate, by the Judiciary and Rules Com-

mittee. This was done and the bill as amended was introduced in the Senate by said committee and then printed as Senate Bill No. 95.

Jack Hawley, legislative chairman, had charge of the bill and I understand urged the Judiciary and Rules committee on several occasions to report the bill back to the Senate for action. But this committee failed to do so and the bill died in the committee. I don't know why.

A Senate rule prohibited your chairman from lobbying for the bill, so that I was unable to take any hand in the bill, except to write it upon the request of Jack Hawley, chairman of the legislative committee.

ALFRED C. CORDON, *Chairman*

Report of Public Relations Committee

The Public Relations Committee this year has not done any active work which would entail the giving of a formal report. It has been our program to contact each president of local bar associations and go over with them and thus obtain a survey of what the lawyers in their respective areas feel this committee should do in fostering public relations on behalf of the Bar Association.

The Committee has additionally undertaken the basis for new publication of "Know The Law" which will be available some time during the fall of this year.

It was the consensus of the Committee's opinion this year that we should get a concrete plan, first from local areas, and then mould it to fit the situation throughout the state as was necessary, and this, therefore, represents what has been undertaken.

When this compilation of the survey has been completed, it will be presented to the Board of Commissioners.

E. L. MILLER, *Chairman*

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