

**1973 Annual Meeting**

**Speakers' Outlines**

**Resolutions**

**and**

**Committee Reports**

**IDAHO STATE BAR**

July 11-14, 1973

Sun Valley, Idaho

## TABLE OF CONTENTS

Report on bills passed by First Regular Session of the 42nd Idaho Legislature Deemed to be of interest to the Bar - by Samuel Kaufman, Jr.....	1
What the General Practitioner Should Know About Administrative Practice - by Larry D. Ripley.....	8
Uniform Commercial Code, Articles 2 (Sales) and 9 (Secured Transactions) - Judicial Developments and Trends; Proposed Legislative Amendments - by Lawrence P. King.....	12
The Uniform Probate Code: Potential Responses to Some Potential Problems - by Eugene F. Scoles.....	20
Uniform Probate Code - Selected Topics - by Prof. Philip E. Peterson.....	22
Report of Executive Director.....	61
Bar-Press Committee Report.....	63
Bar Policy and Position in Public Matters Committee Report..	64
Corporate Law and Business Entities Committee Report.....	66
Continuing Legal Education Committee Report.....	67
Economic Committee Report.....	69
Relative Value Study by the Committee on Professional Economics.....	70
Idaho Code Commission Report.....	79
Idaho Pattern Jury Instructions Report.....	82
Lawyer Referral and Legal Aid Committee Report.....	83
Legislative Information Committee Report.....	86
Peer Review Committee Report.....	87
Professional Ethics Committee Report.....	89
Reapportionment Committee Report.....	91

Restitution and Casualty Insurance Committee.....	102
Public Relations Committee Report.....	104
Taxation Committee Report.....	106
Unauthorized Practice of Law Committee Report.....	107
Report of the College of Law by Albert R. Menard, Jr.....	108
Financial Report.....	114
Resolutions.....	117

IDAHO STATE BAR

SPEAKERS OUTLINES

1973 ANNUAL MEETING

July 11 - 14

Sun Valley, Idaho

REPORT ON BILLS PASSED BY FIRST REGULAR SESSION  
OF THE 42nd IDAHO LEGISLATURE DEEMED TO BE  
OF INTEREST TO THE BAR

By Samuel Kaufman, Jr.

(Reference will be made to the particular bill as well as the  
chapter and page in the 1973 Session Laws.)

CRIMINAL:

SB 1019 - Chap. 1, p. 3

Makes lewd and lascivious conduct with a minor  
or child under 16 years a felony. Effective  
January 26.

SB 1024 - Chap. 2, p. 4

Provides for confinement in any county or municipal  
jail within a judicial district or outside the district  
if there exists an intergovernmental agreement and  
provides for payment of costs by the county from whence  
the order is issued. Effective January 26.

SB 1171 - Chap. 186, p. 432

Provides that malicious destruction of property exceeding  
a value of \$1,000.00 is a felony; 1-5 years, \$1,000.00  
fine, or both.

SB 1103 - Chap. 27, p. 51

Deletes obsolete references to various courts and  
includes snowmobiling under juvenile traffic violation  
and adds juvenile watercraft and juvenile fish and game  
violations.

HB 239 - Chap. 292, p. 615

Limits period of probation on misdemeanors to two years and on felony to the maximum period to which Defendant might have been sentenced.

HB 276 - Chap. 305, p. 655

Repeals Sections 18-4101, 4102 and 4103, and adds new sections defining and regulating obscene material and conduct.

SB 1184 - Chap. 197, p. 442

Repeals Sections 18-601 and 18-602 and enacts a liberalized abortion law.

HB 195 - Chap. 276, p. 588

Amends I.C. 18-4003 and 4004, and generally restricts definitions of first-degree murder but requires a uniform death sentence upon conviction of first-degree murder.

CORPORATION:

HB 77 - Chapter 104, p. 178

Amends I.C. 30-119, providing that a stock certificate may state generally that a corporation will furnish pertinent information relative to classes of shares and rights thereof in lieu of printing such detailed information on the stock certificate.

BUSINESS:

HB 95 - Chap. 112, p. 203

Amends I.C. 72-319, by providing that an employer failing to secure Workmen's Compensation payments for 30 days may be enjoined from doing business during period of default.

HB 93 - Chap. 258, p. 510

Amends I.C. 18-4626. Grants a merchant or employee in any civil or criminal action arising out of detention of a suspected shoplifter a defense of probable cause and that the detention was in a reasonable manner and for a reasonable time.

SB 48 - Chap. 91, p. 157

Strikes provision of I.C. 28-32-503 for retention of any portion of a down payment upon proper cancellation of an agreement in a home solicitation sale.

HB 96 - Chap. 113, p. 205

Amends I.C. 28-33-104 by providing that a loan secured by an interest in land is a consumer loan and then amends I.C. 28-33-105 by providing a consumer loan does not include a loan primarily secured by an interest in land if the collateral is substantial and the interest rate does not exceed 10%.

HB 16 - Chap. 106, p. 188

Amends I.C. 28-32-104 by providing that the sale of an interest in land is a consumer credit sale if the credit service charge exceeds 10% per year.

HB 204 - Chap. 279, p. 594

Outlaws lie detector tests as a condition of employment or retention of employment but exempts law enforcement agencies.

HB 221 - Chap. 285, p. 601

Amends I. C. 48-602, the Consumer Protection Code, by adding definitions and increasing the list of unfair trade practices.

JUDICIAL AND GENERAL:

HB 36 - Chap. 78, p. 124

Amends I.C. 1-2205 by providing for retention or non-retention of magistrates by a vote of the electorate upon expiration of initial appointed term. Subsequent elective terms, 4 years.

HB 277 - Chap. 305, p. 666

Amends I.C. 1-703 by deleting provision for senior district judge and providing for election of an administrative judge by the district judges or appointment by a majority of the Supreme Court.

HB 207 - Chap. 120, p. 227

Amends Part 5, Chapter 3, Title 28 by providing for assessment of interest, collection costs and attorney fees on dishonored checks provided the notice of dishonor is in proper form.

HB 212 - Chap. 284, p. 600

The current address of the Grantees must appear on all deeds.

HB 259 - Chap. 299, p. 631

Raises salaries of prosecuting attorneys. Effective March 17.

HB 319 - Chap. 376, p. 690

Grants an additional \$5.00 credit against income taxes of resident individuals for 1973.

HB 99 - Chap. 42, p. 78

Amends 1-2301. Raises small claims jurisdiction to \$300.00.



HB 117 - Chap. 261, p. 529

Amends Chap. 3, Title 6 by adding new legal provisions regarding landlords' rights to regain possession of rental property of 5 acres or less; court trial within 7 days, procedures, forms, appeals, bonds, etc.

Effective March 15. (Much of the law was omitted in the bill signed by the Governor.)

HB 42 - Chap. 81, p. 130

Permits the State Tax Commission to furnish to the Multistate Tax Commission, for tax purposes, any information contained in the Idaho tax returns, reports, audits or investigations and the Multistate Commission may make such information available to any other state, D.C., U. S. or territory.

HB 135 - Chap. 82, p. 130

Limiting liability of hospitals giving emergency treatment in absence of a doctor and limiting liability of doctors giving emergency treatment in areas outside their special skills.

HB 155 - Chap. 79, p. 126

Amends 49-1016 by providing penalty of misdemeanor for releasing information of blood alcohol test of pedestrians or motor vehicle operators killed in an accident and making uniform throughout the state the laws pertaining to racing on the highways (49-768), disposition of fines and forfeitures, reckless driving (49-1103), penalties for misdemeanors (49-1104) and provisions concerning 5-day notice to appear in court on a traffic citation (49-1113).

HB 171 - Chap. 118, p. 219

Repeals Chap. 3, Title 8 relating to claim and delivery of personal property and re-enacting new claim and delivery law.

HB 172 - Chap. 266, p. 550

Repeals I.C. 8-532 and 533, amends other sections and adds new sections all relating to procedures for attachment of real or personal property. (Much of the law omitted in the bill signed by the Governor.)

SB 1108 - Chap. 171, p. 360

Requires a court order to obtain a reporter's transcript; increases charge from \$1.00 to \$1.25 per page and eliminates state exemption from payment of the charges.

SB 1138 - Chap. 68, p. 114

Changes the word "liquor" to "beverage" with regard to D.W.I. and adds drugs or other intoxicating substances.

SB 1187 - Chap. 200, p. 453

Provides that no hospital shall be required to furnish facilities for nor any employee to assist in any sterilization procedure.

SB 1104 - Chap. 66, p. 111

Extends authority of peace officers outside their own jurisdiction when requested and authorizes mutual aid by state agencies to political subdivisions.

HB 136 - Chap. 265, p. 545

Making certain hospital staff or medical society investigations and reports confidential except for certain information under specific circumstances.

SB 1022 - Chap. 159, p. 304

Provides that community property transferred to a revocable trust remains community property unless otherwise specified.

SB 1121 - Chap. 174, p. 383

Gives warehouseman's lien on household goods priority if the depositor was the legal possessor at the time of deposit.

PROBATE:

SB 1024 - Chap. 2, p. 4

Repeals 15-3-1205 relating to summary administration where surviving spouse is sole beneficiary and re-enacts substantially the same law that provides that the notice shall be as provided in the Uniform Probate Code.

SB 1091 - Chap. 167, p. 319

Various semantic and technical changes in the Probate Code but in amending 15-3-805, reduces medical expense of last illness in priority and makes such a claim inferior to funeral expenses and debts and taxes having a preference under Federal law.

SB 1095 - Chap. 26, p. 50

Provides for joint probate of estates of husband and wife and for compromise of a claim of a minor.

WHAT THE GENERAL PRACTITIONER

SHOULD KNOW ABOUT

ADMINISTRATIVE PRACTICE

By Larry D. Ripley

I

THREE TYPES OF ADMINISTRATIVE  
AGENCIES IN IDAHO -- METHOD OF  
DISTINGUISHMENT IS METHOD OF  
APPEAL.

- A. Industrial Commission and Idaho Public Utilities Commission direct appeal to Supreme Court from decision of these agencies:

Article 5, §9, Constitution of  
The State of Idaho

Industrial Commission --

§§72-724 and 72-732, Idaho Code;

Idaho Public Utilities Commission --

§§61-626 and 61-627, Idaho Code;

Neil v. Public Utilities Commission,  
32 Idaho 44, 178 Pac. 271;

- B. Administrative decisions appealed to District Court:

- (1) Administrative procedure appeal:

§67-5215, Idaho Code;

Mills v. Swanson, 93 Idaho 279,  
460 P.2d 704;

--administrative procedure appeal process  
not exclusive

- (2) Appeal to District Court de novo--  
example of de novo appeal using  
ad valorem tax appeal process:

§§63-401 and 63-1904, Idaho Code;

Tobias v. State Tax Commission,  
84 Idaho 250, 378 P.2d 628;

§§63-2210 and 63-3812, Idaho Code;

- C. Administrative Agency with recommendation powers--  
example:

Idaho Commission on Human Rights;

§§67-5906 and 67-5911, Idaho Code;

## II

### JURISDICTIONAL ASPECTS OF IDAHO PUBLIC UTILITIES COMMISSION AND INDUSTRIAL COMMISSION.

- A. Exhaustion of administrative remedy:

Grever v. Idaho Telephone Company,  
94 Idaho 900, 499 P.2d 1256;

- B. Petition for re-hearing required before appeal on  
Idaho Public Utilities Commission Order:

§61-626, Idaho Code;

- C. See time table for filing appeals and requirements:

§§61-626 and 61-627, Idaho Code;

- D. Petition for re-hearing filed with Idaho Public  
Utilities Commission frames issues for appeal  
to Idaho Supreme Court:

Idaho Underground Water Users Ass'n v.  
Idaho Power Company, 89 Idaho 147,  
404 P.2d 859;

Consumers' Co., Ltd. v. Public Utilities  
Commission, 40 Idaho 772, 236 Pac. 732;

Consumers' Co., Ltd. v. Public Utilities  
Commission, 41 Idaho 498, 239 Pac. 730;

- E. Appeal from Industrial Commission is from final Order and within thirty (30) days:

§§72-718 and 72-725, Idaho Code;

Fields v. Buffalo-Idaho Mining Co.,  
55 Idaho 212, 40 P.2d 114;

### III

APPEAL UNDER ADMINISTRATIVE PROCEDURE  
ACT WITHIN THIRTY DAYS AFTER SERVICE  
OF FINAL ORDER OR DECISION OF  
AGENCY IF RE-HEARING REQUESTED.

§67-5215, Idaho Code;

- A. Example of appeal to District Court from an administrative agency not under administrative procedure act method of appeal:

§63-3812, Idaho Code;

### IV

LEADING CASES WHICH OUTLINE AD-  
MINISTRATIVE AGENCY'S DUTIES  
IN REGARD TO NOTICE, PROCEDURES  
AND DETERMINATION.

- A. Notice, procedure and order of administrative agency must meet the following test:

- (1) Notice with sufficient allegations to apprise party of purpose of hearing.
- (2) Competent evidence to base decision upon.
- (3) Entry of a written order with findings of fact and conclusions.

Arrow Transportation Co. v. Idaho  
Public Utilities Commission,  
85 Idaho 307, 379 P.2d 422;

Application of Intermountain Gas Co.,  
77 Idaho 188, 289 P.2d 933;

Allied Van Lines v. Idaho Public  
Utilities Commission, 79 Idaho  
220, 312 P.2d 1050;

Application of Citizens Utilities  
Company, 82 Idaho 208, 351 P.2d  
487;

Tramel v. State, 92 Idaho 643,  
448 P.2d 649;

(court's insistence that notice  
is a requirement before an ad-  
ministrative agency takes action.)

V

THE DOCTRINE OF "EXHAUSTION OF  
ADMINISTRATIVE REMEDIES" IN  
SPECIAL CIRCUMSTANCES WILL BE  
DEPARTED FROM.

Grever v. Idaho Telephone Company,  
94 Idaho 900, 499 P.2d 1256;

Bohemian Breweries v. Koehler,  
80 Idaho 438, 332 P.2d 875;

State v. Concrete Processors, Inc.,  
85 Idaho 277, 379 P.2d 89;

VI

ADMINISTRATIVE AGENCY MAY ISSUE  
DECLARATORY JUDGMENT.

§67-5207, Idaho Code;

IDAHO STATE BAR

UNIFORM COMMERCIAL CODE, ARTICLES 2 (SALES)  
and 9 (SECURED TRANSACTIONS) - JUDICIAL  
DEVELOPMENTS AND TRENDS; PROPOSED LEGISLATIVE  
AMENDMENTS

Lawrence P. King  
Professor of Law, New York University School of Law

---

ARTICLE 2 - SALES

---

I. Statute of Frauds - Section 2-201.

A. While a signed memorandum is required, § 2-201 provides several practical exceptions permitting proof of an oral contract, each of which has probative value respecting the creation and existence of a contract.

1. Specially manufactured goods.

2. Part performance by acceptance of part of the goods or of payment.

3. One-sided written confirmation.

4. Testimonial exception.

B. Cases.

1. Cook Grains, Inc. v. Fallis, 239 Ark. 962, 395 S.W.2d 749 (1965).

2. Windsor Mills, Inc. v. Collins & Aikman Corp., 10 UCC Rptg. Serv. 1020 (Cal. App. 1972).



3. Fort Hill Lumber Co. v. Georgia-Pacific Corp.,  
10 UCC Rptg. Serv. 616 (Ore. 1972) (definite quantity).
4. Azevedo v. Minister, 471 P.2d 661 (Nev. 1970).
5. Quad County Grain, Inc. v. Poe, 11 UCC Rptg. Serv.  
720 (Iowa 1972).
6. Continental-Wirt Electronics Corp. v. Sprague  
Electric Co., 329 F. Supp. 959 (E.D. Pa. 1971).

II. Parol Evidence Rule - Section 2-202.

A. Evidence of course of dealing and usage of trade is admissible to explain or supplement a writing, as well as consistent additional terms.

B. Cases.

1. Columbia Nitrogen Co. v. Royster Co., 451 F.2d 3  
(4th Cir. 1971); Duesenberg, Annual Survey, 28 Business Lawyer  
805, 822-826 (April, 1973).

III. Contractual Terms; Offer and Acceptance - Section 2-207.

A. Where writings exchanged between the parties do not conform precisely, contract may be formed but issues arise with respect to the controlling terms. Section 2-207 is an attempt at resolving disputes created through non-negotiated contracts, or, as has been otherwise termed, the "battle of the forms."

B. The "mirror image" concept pertaining to offer and acceptance has been discarded by Section 2-207. Where formerly

a seller could control contractual terms when competing forms were transmitted, Section 2-207, in effect, is more advantageous to the buyer.

C. Section 2-207 attempts to permit each party to fashion the contractual terms. But the question is whether either party, in actuality, can make use of the statutory devices.

D. Cases.

1. Construction Aggregates Corp. v. Hewitt-Robins, Inc., 404 F.2d 505 (7th Cir. 1969).

2. Dorton v. Collins & Aikman Corp., 453 F. 2d 1161 (6th Cir. 1972).

3. Windsor Mills, Inc. v. Collins & Aikman Corp., 10 UCC Rptg. Serv. 1020 (Cal. App. 1972).

4. Pantmaker, Inc. v. Collins & Aikman Corp., 10 UCC Rptg. Serv. 133 (N.Y. Sup. Ct. 1971).

#### IV. Consignment Sales - Section 2-326.

A. "True" consignments are governed by Section 2-326 which incorporates the filing provisions of Article 9. On the other hand, a consignment "intended as a security interest" is totally governed by Article 9. The dispute arises as between the consignor claiming title and either a secured creditor of the consignee holding an inventory lien or the consignee's trustee in bankruptcy asserting invalidity of the title retention as a voidable preference or fraudulent transfer pursuant to Sections 60 and 70 of the Bankruptcy Act.

B. Cases.

1. American Nat'l Bk. of Denver v. Quad Construction, Inc., 504 P2d 1113 (Colo. App. 1972) (11 UCC Rptg. Serv. 1192).

V. Effect of Insolvency - Sections 2-702, 2-502.

A. Buyer's insolvency: Section 2-702.

1. Seller may reclaim goods on demand made within 10 days after receipt by buyer unless false representation of solvency made to seller in writing.

2. Cases.

a. In re Behring & Behring, 5 UCC Rptg. Serv. 600, 42 Ref. J. 92 ( N.D. Tex. 1968) (oral demand insufficient to permit reclamation from buyer's trustee in bankruptcy).

b. In re Mel Golde Shoes, Inc., 403 F.2d 658 (6th Cir. 1968) (seller entitled to reclaim from buyer's trustee in bankruptcy).

c. In re Bel Air Carpets, Inc., 452 F.2d 1210 (9th Cir. 1971) (false financial statement).

B. Seller's insolvency: Section 2-502.

1. Right granted buyer to recover goods is purely illusory.

2. Cases.

a. First Citizen Bank & Trust Co. v. Academic Archives, Inc., 179 S.E.2d 850 (N.C. App. 1971).

3. See Countryman, 1 N.M. Law Rev.

VI. Remedies.

A. Lost Profits of Seller - Sections 2-718, 2-708.

See Neri v. Retail Marine Corp., 30 N.Y.2d 393, 285 N.E.2d 311 (1972).

B. Rejection and Revocation of Acceptance by Buyer - Sections 2-601, 2-608.

See Carnes Construction Co. v. Richards & Convover Steel & Supply Co., 10 UCC Rptg. Serv. 797 (Okla. App. 1972); Northern Plumbing Supply, Inc. v. Gates, 196 N.W.2d 70 (N. Dak. 1972); Reece v. Yaeger Ford Sales, Inc., 184 S.E.2d 722 (W. Va. App. 1971); De Coria v. Red's Trailer Mart, Inc., 491 P.2d 241 (Wash. App. 1971).

ARTICLE 9 - SECURED TRANSACTIONS

---

I. Description of Collateral.

A. Discrepancy between security agreement and financing statement.

See Mitchell v. Shepard Mall State Bank, 458 F.2d 700 (10th Cir. 1972), aff'g 324 F. Supp. 1029 (W.D. Okla. 1971).

II. Future Advances - "Dagnet Clauses."

The boiler plate dragnet clause has been running into trouble in the courts which complicates the lawyer's drafting task.

See John Miller Supply Co., Inc. v. Western State Bank, 199 N.W.2d 161 (Wis. 1972); In re Eshelman, 10 UCC Rptg. Serv.

750 (Ref. E.D. Pa 1972).

The 1972 revisions for suggested legislative enactment would help somewhat. See proposed Sections 9-105(1)(k), 9-301(4), 9-312(7).

### III. Priorities

A. Some problems with respect to purchase money security interests in equipment versus an existing equipment lien. Section 9-312(4).

See *In re Automated Bookbinding Service, Inc.*, 336 F. Supp. 1128 (D.Md. 1972), reversed 11 UCC Rptg. Serv. 897 (4th Cir. 1972).

B. Movables - Section 9-103.

1. See *In re Williams*, 10 UCC Rptg. Serv. 277 (Ref. D.Me 1971).

2. See 1972 revisions containing an extensive re-write of Section 9-103.

C. Federal Tax Liens.

1. See: *L.B. Smith, Inc. v. Foley*, 341 F. Supp. 810 (W.D. N.Y. 1972); *United States v. Trigg*, 465 F.2d 1264 (8th Cir. 1972).

### IV. Bankruptcy Preference.

A. See *Nunnemaker Transportation Co. v. United California Bank*, 456 F.2d 28 (9th Cir. 1972).

### V. Default.

A. Right to deficiency judgment after failure to comply

with obligations respecting sale after repossession.

1. Loss of right to deficiency: Dynalectron Corp. v. Jack Richards Aircraft Co., 337 F. Supp. 659 (W.D. Okla. 1972); Atlas Thrift Co. v. Horan, 27 Cal. App. 3d 999 (1972).

2. No loss of right but reduction based on what might have been recovered had there been compliance with statute: Harris v. Bowar, 4CCH Sec Trans. Guide ¶ 51, 967 (Md. App. 1972); Massey-Ferguson Finance Corp. v. Hamlin, 9UCC Rptg. Serv. 142 (Tenn. App. 1971); Grant County Tractor Co. v. Nuss, 496 P2d 966 (Wash. App. 1972).

B. Right to self-help in repossessing - unconstitutional?

1. Basic decisions of U.S. Supreme Court creating the the problem! Sniadach v. Family Finance Corp., 395 U.S. 337 (1969); Fuentes v. Shevin, 407 U.S. 67 (1972); D.H. Overmyer Co. v. Frick Co., 405 U.S. 174 (1972).

2. Use of self-help unconstitutional: Adams v. Egley, 338 F. Supp. 614 (S.D. Cal. 1972) appeal pending; Gibbs v. Titelman, Civ. No. 72-2165 (F.D. Pa. 1972).

3. Contra, i.e., re constitutional problem: McCormick v. First National Bank of Miami, 322 F. Supp. 604 (S.D. Fla. 1971); Oller v. Bank of America, 342 F. Supp. 21 (N.D. Cal. 1972); Greene v. First National Exchange Bank of Virginia, 11 UCC Rptg. Serv. 367 (W.D. Va. 1972). Messenger v. Sandy Motors, Inc., 4CCH Sec. Trans. Rep. ¶ 51, 952 (N.J. Sup. Ct. 1972).

See Haydock, "Taking Possession of Collateral by Self-Help After Default," 28 Business Lawyer 797 (April, 1973).

VI. Proposed Revisions of Article 9.

A. Proceeds.

1. Perfection. Sections 9-203, 9-306.

2. Proceeds of inventory and equipment. Section 9-312

(3) and (4).

3. Insurance proceeds. Sections 9-104, 9-306.

B. Consignments. Sections 9-114, 9-408.

C. Multistate Transactions. Section 9-103.

D. Future Advances. Sections 9-105, 9-312(5), 9-301.

The Uniform Probate Code:  
Potential Responses to Some Potential Problems

Eugene F. Scoles  
6/21/73

I. Introduction

Legislative developments regarding the Uniform Probate Code

II. A general perspective of Uniform Probate Code

A. Principal Topics

1. Succession and administration of decedents' estates

Chapter 1, General Provisions, Definitions and Jurisdiction

Chapter 2, Intestate Succession and Wills

Chapter 3, Probate and Administration

Chapter 4, Ancillary Administration

2. Guardians and Conservators

Chapter 5, Protection of Persons Under Disability and Their Property

3. Non-probate Transfers Effective at Death

Chapter 6, Non-probate Transfer

4. Trust Administration

Chapter 7, Trust Administration

III. Succession under the Code in general perspective

A. Statutory estate plan in Chapter 2, Parts 1 and 4 (intestate succession and dispositions for spouse and children)

B. Family protection provisions in Chapter 2, Parts 2, 3 and 4 (spouses elective share, pretermitted children and allowances)

C. Wills including contracts to make wills and renunciations in Chapter 2, Parts 5, 6, 7 and 8

D. The flexible system of administration, including probate and contest of wills, appointment and supervision of personal representatives, claims and settlement procedures in Chapter 3.

E. Multi-state estates are dealt with by many sections scattered through Chapters 2, 3 and 7 but with particular concentration in Chapter 4.

F. Small estates which utilize the affidavit procedures in Chapter 3, Part 12, and other aspects of flexible administration.

IV. Utilization of the procedural alternatives under the Code

A. Typical situations in which various formal or informal proceedings may be used.



IV. Continued

B. Protection of public, creditors, purchasers

C. Alternative means of insulating titles against attack

D. Settlements and closings, the choices and chances

V. Some overriding considerations and provisions

UNIFORM PROBATE CODE

Selected Topics

By Prof. Philip E. Peterson

1. ALTERNATIVE METHODS

A. Intestacy

(1) The simplest case, husband or wife dies, the survivor intends to pay the bills and is not concerned about protection from creditors nor about another will or another spouse - essentially concerned only about an ability to show title.

- (a) Secure informal appointment as P.R.
- (b) Prepare tax returns.
- (c) Execute a deed distributing property - file a copy.
- (d) Letter advising client of what you have done and why.
- (e) Are there any problems:
  - (i) Liability to creditors and beneficiaries.
  - (ii) What about oath as P.R.?
  - (iii) How about court record-keeping on cases?
- (f) Forms:

IN THE DISTRICT COURT OF  
 THE \_\_\_\_\_ JUDICIAL DISTRICT  
 OF THE STATE OF IDAHO, IN AND  
 FOR THE COUNTY OF \_\_\_\_\_

IN THE MATTER OF THE ESTATE )  
 )  
 OF )  
 )  
 , deceased. )

CASE NO. \_\_\_\_\_

PROBATE

FEE: \$ 27.50

APPLICATION FOR INFORMAL  
 APPOINTMENT OF A PERSONAL  
 REPRESENTATIVE

Your applicant respectfully shows as follows:

1. Your applicant is \_\_\_\_\_
2. \_\_\_\_\_ died on \_\_\_\_\_ 19\_\_\_\_, at the age of \_\_\_\_\_ years. At the time of her death the decedent was domiciled in Latah County, Idaho and is survived by the following persons:

- 
- 
3. No personal representative of the decedent has been appointed in this state or elsewhere.
  4. Applicant has not received a demand for notice and is not aware of a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.
  5. An estimate of the total assets of the estate has been sent to the State Tax Commission.
  6. The decedent left no will.
  7. The time limit for informal probate has not expired.
  8. Applicant is entitled to be appointed as personal representative because he is the surviving spouse of the decedent who died leaving no will and as such is entitled to priority pursuant to the provisions of Idaho Code section 15-3-203(a)(4).

WHEREFORE, applicant prays that he be appointed personal representative of decedent's estate and that letters be issued to applicant.

DATED this \_\_\_\_ day of \_\_\_\_\_ 19\_\_.

STATE OF IDAHO        )  
                               ( ss.  
 County of                )

\_\_\_\_\_ being duly sworn, states that he is the petitioner in the foregoing application, that he has read the application and the facts therein stated are true to the best of his knowledge.

Subscribed and Sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
 Notary Public, in and for the  
 State of Idaho

COURT HEADING

STATEMENT OF INFORMAL  
APPOINTMENT OF A PERSONAL  
REPRESENTATIVE

The application of \_\_\_\_\_ for informal appointment as a personal representative having been presented to the Court this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, and it appearing that the application is complete and contains the applicant's oath or affirmation that the statements contained therein are true to the best of his knowledge and belief, the Court makes the following findings based upon said application:

1. \_\_\_\_\_ died on \_\_\_\_\_ and at least five (5) days have elapsed since decedent's death.
2. The applicant is an interested person, as heir of decedent.
3. The decedent was domiciled in \_\_\_\_\_ County, Idaho, and venue is proper.
4. No demand for notice has been filed.
5. The time limit for original appointment and administration has not expired.
6. A personal representative has not been appointed in this or any other county of this state.
7. \_\_\_\_\_ is entitled to act as personal representative of the decedent's estate because he is the surviving spouse of the decedent who died without a will.

NOW, THEREFORE, IT IS ORDERED as follows:

1. The application for informal appointment of a personal representative is hereby granted and \_\_\_\_\_ is hereby appointed as personal representative of the estate of \_\_\_\_\_, deceased, without bond.

2. Letters of Administration shall be issued to \_\_\_\_\_  
\_\_\_\_\_ upon his qualification and acceptance.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
-----  
Judge

COURT HEADING

LETTERS OF ADMINISTRATION

\_\_\_\_\_, the husband of decedent, having  
made informal application for appointment as personal representative, said  
\_\_\_\_\_ is hereby appointed personal representative of  
the estate.

WITNESS: \_\_\_\_\_ Judge of the District Court, County  
of \_\_\_\_\_, State of Idaho, on the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Judge

STATE OF IDAHO )  
( ss  
County of )

I, \_\_\_\_\_, hereby accept the duties of  
personal representative of the estate of \_\_\_\_\_,  
deceased, and do solemnly swear that I will perform, according to law,  
the duties of personal representative of the estate of \_\_\_\_\_  
\_\_\_\_\_, deceased.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
Judge

COURT HEADING

PERSONAL REPRESENTATIVE'S DEED  
DISTRIBUTING PROPERTY OF ESTATE

\_\_\_\_\_, personal representative of the estate  
of \_\_\_\_\_, who died without a will does  
take possession of the estate of \_\_\_\_\_ and  
does, by this instrument, deed and set over all of the property of  
\_\_\_\_\_, including the following described real  
estate located in \_\_\_\_\_ County, Idaho:

to \_\_\_\_\_, the husband of the decedent and her  
sole heir, who lives at \_\_\_\_\_.

DATED this \_\_\_\_\_ 19\_\_.

STATE OF IDAHO )  
( ss  
County of )

\_\_\_\_\_, personal representative of the  
estate of \_\_\_\_\_, deceased, being first duly sworn,  
does hereby acknowledge that he executed the above deed as his free and  
voluntary act.

\_\_\_\_\_  
Notary Public in and for the  
State of Idaho

Dear Mr. \_\_\_\_\_

I have prepared the papers necessary to secure your informal appointment  
as personal representative and distribution of your wife's estate to you.  
In our discussion, I drew your attention to the fact that this will enable  
you to establish title to your wife's property and to convey that property  
to purchasers. This will not protect you from creditors; you will be liable

for your wife's debts to the extent of the property you inherited from her; nor will this protect you from someone claiming heirship from your wife or under a will purportedly written by her. You indicated that you were not interested in protection from creditors or competing beneficiaries and wanted to be able to establish title to your wife's property in the most expeditious and least expensive manner. That is what I have provided for you. If you have any questions, please call me.

\_\_\_\_\_  
Attorney at Law

- - - - -

(2) There is a surviving spouse and a second family, some question could be raised as to whether all the property is community, there is no concern about creditors.

(a) Petition for Summary Administration. § 15-3-1205.

(b) Publication of Notice.

(i) Reference to § 15-1-401

(ii) 30 day requirement.

(c) Order of Court.

(i) Recording

(d) Tax returns.

(e) Forms:

COURT HEADING

PETITION FOR SUMMARY  
ADMINISTRATION

\_\_\_\_\_, surviving spouse of \_\_\_\_\_  
\_\_\_\_\_, petitions for summary administration of her estate pursuant to the provisions of Idaho Code, Section 15-3-1205. Your petitioner alleges and states:

1. The petitioner \_\_\_\_\_ and \_\_\_\_\_  
were married on \_\_\_\_\_ at \_\_\_\_\_.

2. \_\_\_\_\_ died at \_\_\_\_\_ on  
the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

3. At the time of her death \_\_\_\_\_ was a domiciliary  
of and resident in the County of \_\_\_\_\_, State of Idaho.

4a. At the time of her death, \_\_\_\_\_ owned one-half  
interest in community real property located in the State of Idaho, more  
particularly described as:

and this property was the community property of your petitioner,  
\_\_\_\_\_ and the decedent.

4b. Your petitioner \_\_\_\_\_ is the sole heir of the  
deceased, \_\_\_\_\_.

5. The petitioner does assume liability for any and all indebtedness which  
might be a claim against the estate of the decedent \_\_\_\_\_.

6. All of the property owned by the decedent at the time of her death was  
community property of the decedent, \_\_\_\_\_, and  
your petitioner \_\_\_\_\_.

WHEREFORE, petitioner prays that a time and place be set for hearing and  
that all property of the decedent be distributed to him as the sole heir of  
decedent.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
Petitioner

VERIFICATION

STATE OF IDAHO )  
( ss  
County of )

\_\_\_\_\_ being first duly sworn states that he has read



the above and that the statements contained therein are true.

Subscribed and Sworn to before me this \_\_\_\_\_ day of

\_\_\_\_\_ 19\_\_ .

\_\_\_\_\_  
Notary Public, in and for the  
State of Idaho, residing in \_\_\_\_\_

Paragraph 4 above:

- 4a. This is not an essential part of the petition.
- 4b. This procedure may be used if succession depends upon a will if the surviving spouse is the sole beneficiary. It may also be used if separate property is involved in an intestacy, if the surviving spouse is the sole heir; in this situation a complete statement of heirship (disavowal of a second family) must be used.

- - - - -

COURT HEADING

NOTICE OF HEARING

Please be advised that at 10:30 a.m. on the \_\_\_\_\_ day of \_\_\_\_\_,  
 19\_\_, the District Court at \_\_\_\_\_, Idaho, will hear a petition of  
 \_\_\_\_\_ for summary administration of the estate of  
 \_\_\_\_\_ at the county courthouse in that city.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_ .

\_\_\_\_\_  
Petitioner.

- - - - -

COURT HEADING

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND DECREE OF DISTRIBUTION UPON  
SUMMARY ADMINISTRATION

The Court having reviewed the petition, having heard the evidence presented by the petitioner, does make the following Findings of Fact:

1. \_\_\_\_\_ died on \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_.
2. \_\_\_\_\_ at the time of her death was domiciled in \_\_\_\_\_ County, State of Idaho.
3. \_\_\_\_\_ and \_\_\_\_\_ were married \_\_\_\_\_ at \_\_\_\_\_.
4. At the time of her death, \_\_\_\_\_, owned a one-half interest in property located in the County of \_\_\_\_\_ State of Idaho, more particularly described as:
5. That this and all property owned by the decedent at the time of her death was community property of the decedent and her surviving spouse.
6. That \_\_\_\_\_ is the sole heir of \_\_\_\_\_.
7. That proper notice as required by law has been given.

Based upon the foregoing Findings of Fact, the Court does make the following Conclusion of Law:

That \_\_\_\_\_, the surviving spouse of \_\_\_\_\_, is the sole heir of \_\_\_\_\_ and is entitled to distribution of all property in her estate.

DECREE OF DISTRIBUTION

The Court, having made the foregoing Findings of Fact and Conclusion of Law, does hereby decree all of the property of \_\_\_\_\_, including:

and all improvements thereon and appurtenances thereto, be and the same is distributed to \_\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

\_\_\_\_\_  
Magistrate

- (3) Mother dies leaving three children, none of whom are familiar with her affairs.
  - (a) Nomination by child 2 and child 3 of child 1 as personal representative.
  - (b) Petition for informal appointment of child 1 as P.R.
  - (c) Publication of Notice to Creditors, payment of claims, preparation of inventory and submission of tax returns.
  - (d) Personal Representative proposal for division of property. § 15-3-906(b).
  - (e) P.R. deed distributing property.
  - (f) Personal Representative first and final accounting and informal petition for determination of testacy status and heirship and approval of distribution.
  - (g) OR, Personal Representative presents first and final accounting and petitions for testacy and heirship determination and distribution in accord with the P.R. proposal for distribution.
  - (h) Decree.
    - (i) What protection does P.R. have?
    - (ii) What protection do heirs have?
  - (i) Forms:

COURT HEADING

WAIVER OF RIGHT TO NOMINATION  
AS PERSONAL REPRESENTATIVE

1. \_\_\_\_\_, a widow, died leaving as her sole heirs her three children, C 1, C 2 and C 3.
2. C 2 and C 3 do, by this instrument, <sup>and renounce</sup> waive/their right to join with C 1 as personal representatives of the estate of \_\_\_\_\_ and do consent to the appointment of C 1 as personal representative of the estate of \_\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
C 2

\_\_\_\_\_  
C 3

COURT HEADING

APPLICATION FOR INFORMAL  
APPOINTMENT

1. Your applicant is \_\_\_\_\_, daughter of the decedent.
2. \_\_\_\_\_, a widow, died on \_\_\_\_\_ 19\_\_\_\_, at the age of \_\_\_\_\_ years. At the time of her death, the decedent was domiciled in \_\_\_\_\_ County, Idaho, and is survived by the following persons who are her only heirs:  

C 1, C 2, C 3.
3. No personal representative of the decedent has been appointed in this state or elsewhere.
4. Applicant has not received a demand for notice and is not aware of a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.
5. An estimate of the total assets of the estate has been sent to the State Tax Commission.
6. The decedent left no will.
7. The time limit for informal probate has not expired.
8. Applicant is entitled to be appointed as personal representative because she is the daughter of the decedent, one of three heirs of the decedent, and the other two heirs of the decedent, C 2 and C 3, have renounced their right to appointment and consented to applicant's appointment as personal representative, and a copy of such renunciation and consent is attached to this application.

WHEREFORE, applicant prays that she be appointed personal representative of decedent's estate and that letters be issued to applicant.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

STATE OF IDAHO )  
( ss  
County of )

\_\_\_\_\_, being first duly sworn, states that she is the applicant above, that she has read the application and the facts stated therein are true to the best of her knowledge.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Idaho.

-----  
COURT HEADING

RENUNCIATION OF RIGHT  
TO APPOINTMENT

C 2 and C 3, being aware of their right to participate and serve as personal representatives of the estate of \_\_\_\_\_ and of their right to renounce the same, do by this instrument renounce this right as provided in Idaho Code Section 15-3-203(c) and do consent to the appointment of C 1 as personal representative of the estate.

\_\_\_\_\_  
C 2 Address \_\_\_\_\_

\_\_\_\_\_  
C 3 Address \_\_\_\_\_

-----  
COURT HEADING

STATEMENT OF INFORMAL  
APPOINTMENT OF PERSONAL  
REPRESENTATIVE

The application of \_\_\_\_\_ for informal appointment as personal representative having come on for hearing on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_, and it appearing that the application is

complete and contains the applicant's oath or affirmation that the statements contained therein are true to the best of her knowledge and belief, the Court makes the following findings based upon said application:

1. \_\_\_\_\_ died on \_\_\_\_\_ and at least five (5) days have elapsed since decedent's death.
2. The applicant is an heir of the decedent and is an interested person.
3. Decedent was domiciled in \_\_\_\_\_ County and venue is proper.
4. No request for notice has been filed.
5. The time limit for appointment and administration has not expired.
6. A personal representative has not been appointed in this or any other county of this state.
7. \_\_\_\_\_ is entitled to act as personal representative of the decedent's estate because she is one of three children of the decedent who are the sole heirs of decedent who died without a will and the other two children have waived their right to appointment and consented to the nomination of applicant.

NOW, THEREFORE, IT IS ORDERED:

1. The application for informal appointment of a personal representative is hereby granted and \_\_\_\_\_ is hereby appointed as personal representative of the estate of \_\_\_\_\_, deceased, without bond.

2. Letters of Administration shall be issued to \_\_\_\_\_ upon his qualification and acceptance.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1973.

\_\_\_\_\_  
Magistrate

COURT HEADING

LETTERS OF ADMINISTRATION

\_\_\_\_\_, daughter of decedent, having made formal application for appointment as personal representative, said \_\_\_\_\_ is hereby appointed personal representative of the estate.

WITNESS, \_\_\_\_\_, Magistrate of the District Court, County of \_\_\_\_\_, State of Idaho, on this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

STATE OF IDAHO )  
                  ( ss  
County of        )

\_\_\_\_\_  
Magistrate

I, \_\_\_\_\_, hereby accept the duties of personal representative of the estate of \_\_\_\_\_, deceased, and do solemnly swear that I will perform, according to law, the duties of personal representative of the estate of \_\_\_\_\_, deceased.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
Magistrate

COURT HEADING

NOTICE OF APPOINTMENT

To: Heirs of \_\_\_\_\_  
Please be advised that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, \_\_\_\_\_ was appointed as the personal representative of the estate of \_\_\_\_\_, who died without a will and that

the address of \_\_\_\_\_ is: \_\_\_\_\_  
\_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
C I  
Personal Representative

-----  
COURT HEADING

NOTICE TO CREDITORS

Notice is hereby given that the undersigned has been appointed personal representative of the above-named estate. All persons having claims against the decedent are required to present their claims within four (4) months after the date of first publication of this notice or these claims will be forever barred. Claim must either be presented to the personal representative, \_\_\_\_\_, at \_\_\_\_\_, or filed with the court.

\_\_\_\_\_  
Personal Representative

-----  
COURT HEADING

INVENTORY AND APPRAISEMENT

\_\_\_\_\_ states that the following inventory contains a true statement of all the property known by \_\_\_\_\_ to be owned by the decedent at the time of her death. The values set forth for each item represent the fair market value of the property as of the date of death of the decedent:



<u>Real Property</u>	<u>Separate</u>	<u>Community</u>
	\$ Value	\$ Value
<u>Personal Property</u>	<u>Separate</u>	<u>Community</u>
	\$ Value	\$ Value

-----  
Personal Representative

COURT HEADING

NOTICE OF PROPOSED DISTRIBUTION

To the Heirs of \_\_\_\_\_:

You are, by this instrument, advised that the estate of \_\_\_\_\_  
\_\_\_\_\_ is to be divided equally among the heirs of \_\_\_\_\_  
\_\_\_\_\_ and that your personal representative proposes to  
distribute the estate in the following manner:

- C 3          Property          Value
- C 2          Property          Value
- C 1          Property          Value

Assets consisting of cash now deposited in \_\_\_\_\_ Bank  
the amount of \$ \_\_\_\_\_ will be divided equally between  
C 3, C 2 and C 1 after payment of all estate obligations.

You are advised that, if you have any objection to the nature of the  
proposed distribution or the value listed for the assets, you must advise the  
personal representative of your objection in writing within thirty (3) days of  
the date of mailing of this proposal. If you fail to object within this  
period, your right to object will terminate.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

-----  
Personal Representative  
-----  
Address

COURT HEADING

PERSONAL REPRESENTATIVE  
DEED DISTRIBUTING PROPERTY

\_\_\_\_\_, personal representative of the estate of \_\_\_\_\_, having taken possession of the property of the estate for the purpose of administration, does by this instrument, pursuant to her proposal for distribution, quit claim and distribute to the persons whose names are set out below the property which appears opposite their names:

- C 3, whose address is \_\_\_\_\_ Real Property, Personal Property.
- C 2, whose address is \_\_\_\_\_ Real Property, Personal Property
- C 1, whose address is \_\_\_\_\_ Real Property, Personal Property

STATE OF IDAHO        )  
                          ( ss  
County of             )

\_\_\_\_\_ personally known to me appeared before me and acknowledged that she executed the above deed as her voluntary act as personal representative of the estate of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Idaho

-----  
COURT HEADING

FINAL ACCOUNT AND PETITION  
FOR DETERMINATION OF TESTACY  
STATUS AND HEIRSHIP AND  
APPROVAL OF DISTRIBUTION OF ESTATE

\_\_\_\_\_, personal representative of the estate of \_\_\_\_\_  
\_\_\_\_\_ does respectfully state to the court:

1. \_\_\_\_\_ died without a will on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, and \_\_\_\_\_ was appointed personal representative of the estate on the \_\_\_\_ day of \_\_\_\_\_ 19\_\_.

2. Petitioner did file with this court an inventory of the property of the estate.

3. Petitioner published notice to creditors as required by law and has paid all claims presented to her for payment. The time for presenting contract claims that arose prior to death has expired and petitioner knows of no other claims against the estate.

4. Petitioner has distributed property of the decedent pursuant to a proposal for distribution, a copy of the deed distributing property of the decedent is attached, and your petitioner has by check distributed the cash remaining to the account of the estate in the following amounts:

To C 3 \$ \_\_\_\_\_, To C 2 \$ \_\_\_\_\_, to C 3 \$ \_\_\_\_\_, as proposed.

5. All costs of administration and taxes have been paid.

6. Petitioner has prepared and does submit a final account attached to this petition which details all receipts and disbursements in the administration of the estate.

7. The estate is in condition to be closed.

8. \_\_\_\_\_, a widow, died without a will and leaving the following children as her sole heirs:

C 3	Age: _____	Address: _____
C 2	Age: _____	Address: _____
C 1	Age: _____	Address _____

WHEREFORE, Your petitioner prays for an order of the court that:

1. The Court fix a time and place for hearing her petition.
2. The account filed herewith be allowed and settled and \_\_\_\_\_ be discharged as personal representative.

3. The distribution of assets of the estate made by \_\_\_\_\_  
\_\_\_\_\_ as personal representative be approved.

4. The Court determine the testacy status of decedent and her heirs.

DATED This \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Personal Representative

COURT HEADING

ORDER FIXING TIME AND  
PLACE OF HEARING

The \_\_\_\_\_ day of \_\_\_\_\_, 1973, at \_\_\_\_\_

is set as the time for hearing the final account of \_\_\_\_\_  
and the petition for approval of distribution, testacy determination and  
heirship. Petitioner shall give notice of this hearing in the manner  
required by Idaho Code Section 15-1-401 and shall give notice to all  
persons who have demanded notice, pursuant to the provision of Idaho Code  
Section 15-3-204.

DATED This \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Magistrate

COURT HEADING

NOTICE OF HEARING OF FINAL  
ACCOUNT, APPROVAL OF DISTRIBUTION  
AND DETERMINATION OF TESTACY STATUS  
AND HEIRSHIP.

Notice is hereby given that the personal representative of the above named  
estate has filed her final account and a petition for approval of her dis-  
tribution of the estate and for a determination of testacy status and heirship.  
(A copy of the account and petition is attached.) A hearing upon this account

and petition will be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
at \_\_\_\_\_ in the above named Court, at which time objections  
will be heard and the requested determinations made by the Court. (1)

Personal Representative

(1) The parenthetical insertion will appear in the notice mailed to heirs but not in the published notice.

-----  
COURT HEADING

ORDER APPROVING FINAL  
ACCOUNT AND DISTRIBUTION,  
DETERMINING TESTACY STATUS  
AND HEIRSHIP

The petition of \_\_\_\_\_, personal representative of the estate of \_\_\_\_\_, for settlement of the estate, approval of her distribution of the estate, determination of testacy status and heirship having come before the Court for hearing, the Court makes the following findings:

1. The personal representative has filed a proper inventory and published notice to creditors, paid all debts presented and the time allowed for filing pre-death claims against the estate has expired.
2. All expenses of administration and taxes have been paid.
3. The personal representative has filed a final account and the estate is in condition to be closed.
4. \_\_\_\_\_ died without a will on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, leaving as her sole heirs the following persons:

C 3            Age:  
C 2            Age:  
C 1            Age:

IT IS HEREBY ORDERED AND DECREED:<sup>1</sup>

1. The final account of \_\_\_\_\_ is allowed and settled.

2. \_\_\_\_\_ died on the \_\_\_ day of \_\_\_\_\_ 19\_\_

without a will and the children whose names are set out below are her only heirs:

C 3, C 2, C 1

3. Distribution of the property of the estate to the heirs named above is approved.

4. The personal representative is discharged.

DATED This \_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
Magistrate

<sup>1</sup> Must there be a deed or instrument of distribution from the personal representative to qualify the heirs as distributees and therefore entitle them to the protection provided by Section 15-3-910? If dispute is expected, the personal representative would prefer the alternative route, presenting a proposed decree of distribution to the court.

-----

(4) Insolvent estate:

(a) Formal petition secures appointment of Personal Representative as representative of creditors. § 15-3-302(b)(1)

(i) Why.

(b) Filing of inventory.

(c) Notice to and payment of creditors; tax returns.

(d) Formal closing seeking settlement of accounts.

(e) Forms:

COURT HEADING

PETITION FOR FORMAL  
APPOINTMENT OF PERSONAL  
REPRESENTATIVE

Your petitioner respectfully states to the Court:

1. Your petitioner is \_\_\_\_\_, and has a claim in the amount of \$ \_\_\_\_\_ against \_\_\_\_\_.

2. \_\_\_\_\_ died on the \_\_\_\_ day of \_\_\_\_\_ 1973, at the age of \_\_\_\_ years and, at the time of his death, was domiciled in \_\_\_\_\_ County, Idaho. \_\_\_\_\_ is survived by the following persons:

3. Petitioner asserts, upon information and belief, that \_\_\_\_\_ died without a will.

4. No personal representative of the decedent has been appointed in this state or elsewhere and no demand for notice of any probate, testacy or appointment proceedings concerning the decedent has been filed in this state or elsewhere.

5. Petitioner asserts upon information and belief that the estate of decedent is sufficient to pay homestead, exempt property and family allowances to his family, but is insufficient to pay the claims of all creditors of his estate.

6. Petitioner has been requested by all other creditors of \_\_\_\_\_ known to petitioner to serve as personal representative of the estate of \_\_\_\_\_.

7. Petitioner is entitled to appointment as personal representative of the estate of \_\_\_\_\_ because he has been nominated by all creditors known to petitioner to be personal representative and the estate is sufficient to pay family allowances but is insufficient to pay creditors.<sup>1</sup>

WHEREFORE Petitioner prays that the Court fix a time and place for hearing, that the Court determine at that hearing the financial condition of the estate and petitioner's right to be appointed personal representative of the estate of \_\_\_\_\_.<sup>2</sup>

DATED This \_\_\_\_ day of \_\_\_\_\_ 1973.

\_\_\_\_\_  
Petitioner  
\_\_\_\_\_  
Address

- 1 A creditor may wish to have his administration supervised though the need for supervision does not seem clear.
- 2 Notice of hearing on the petition should be published and mailed to all heirs of decedent.

STATE OF IDAHO )  
( ss  
County of )

\_\_\_\_\_, being first duly sworn, states that he has read the above petition and the statements made therein are true.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 1973.

\_\_\_\_\_  
Notary Public in and for the  
State of Idaho

COURT HEADING

ORDER APPOINTING CREDITOR  
AS PERSONAL REPRESENTATIVE

The petition of \_\_\_\_\_ for appointment as personal representative of the estate of \_\_\_\_\_ having come before the Court for hearing, and the Court, having heard oral testimony, makes the following findings:

- 1. Proper notice of the petition for appointment of a creditor as personal representative has been given.



2. \_\_\_\_\_ died on the \_\_\_ day of \_\_\_\_\_, 1973, and, on the date of his death, decedent was domiciled in \_\_\_\_\_ County, Idaho, and \_\_\_\_\_ County is the proper venue.

3. \_\_\_\_\_ died without a will.<sup>1</sup>

4. The estate of decedent is sufficient to pay the homestead, exempt property and family allowance to the family of decedent but it not sufficient to pay the claims of creditors.

5. The creditors known to the Court appeared before the Court and nominated \_\_\_\_\_ as personal representative or joined in written nomination of petitioner as personal representative.

6. No request for notice has been filed.

NOW THEREFORE IT IS ORDERED AND DECREED:

1. The petition of \_\_\_\_\_ is granted and \_\_\_\_\_ is appointed personal representative of the estate of \_\_\_\_\_ to serve without bond.

2. Letters of administration shall be issued to \_\_\_\_\_ upon his qualification and acceptance.

3. \_\_\_\_\_ shall first satisfy the rights of the family of \_\_\_\_\_ to homestead allowance, exempt property and family allowance as required by law<sup>2</sup> and shall pay claims properly presented to him as personal representative of the estate of \_\_\_\_\_ in the manner required by law for the payment of claims of insolvent estates.

\_\_\_\_\_  
Magistrate

<sup>1</sup> The creditors may want a bond filed in this situation.

<sup>2</sup> Is the family allowance limited to \$6,000 in this situation or is it determined by the standard of living of the family prior to death? § 15-3-403?

LETTERS, NOTICE TO CREDITORS AND INVENTORY AS IN (1) and (3) above.

-----

COURT HEADING

FIRST AND FINAL ACCOUNT AND  
PETITION FOR SETTLEMENT  
OF ESTATE

\_\_\_\_\_, personal representative of the estate  
of \_\_\_\_\_ respectfully states to the Court:

1. \_\_\_\_\_ died on the \_\_\_ day of \_\_\_\_\_ 1973.
2. Your petitioner, a creditor of the estate, was appointed personal representative of the estate on the \_\_\_ day of \_\_\_\_\_, 1973.
3. Homestead allowance in the amount of \$10,000<sup>1</sup> exempt property in the amount of \$3,500 and a family allowance in the amount of \$6,000 was paid to the widow of decedent.
4. The estate of decedent was insolvent after payment of family allowance.
5. Expenses of administration have been paid.
6. A proper inventory was filed with this court, notice to creditors properly published and all claims of creditors paid in proportion to the respective amount of the claim.
7. No federal or state taxes are known to be due.
8. There are no assets of the estate left for distribution to heirs of the decedent after payment of family obligations and part of the claims of creditors.
9. An accounting of all receipts and disbursements of the estate is attached.
10. The estate is in condition to be closed.

WHEREFORE, petitioner prays for time and place for hearing be set and that his account be approved and he be discharged.

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Address

VERIFICATION:

<sup>1</sup> Homestead allowance is \$4,000 if there are no dependent children.

- - - - -

COURT HEADING

NOTICE

As above.

- - - - -

COURT HEADING

ORDER SETTLING ACCOUNTS

The petition of \_\_\_\_\_, personal representative of the estate of \_\_\_\_\_ for settlement of the estate and approval of his first and final account having come before the Court for hearing, the Court having heard the evidence and being fully advised does make the following findings:

1. Proper notice has been given.
2. A proper inventory was filed and notice to creditors given as required by law.
3. Homestead allowance, exempt property and family allowance in the total amount of \$19,500 was properly paid to \_\_\_\_\_, widow of decedent.
4. The estate of \_\_\_\_\_ was an insolvent estate.
5. All claims presented to the personal representative have been properly paid in the manner provided for the payment of claims of insolvent estates.
6. There are no assets of the estate for distribution to the heirs.
7. The account of \_\_\_\_\_ is proper and correct.
8. The estate of \_\_\_\_\_ is in condition to be closed.

IT IS HEREBY ORDERED AND DECREED:

1. The account of \_\_\_\_\_ is approved and settled.
2. \_\_\_\_\_, personal representative of the estate of \_\_\_\_\_, is discharged.

Dated this \_\_\_\_ day of \_\_\_\_\_ 1973.

\_\_\_\_\_  
Magistrate

B. TESTACY

- (1) Surviving husband or wife with no concern about creditors or competing beneficiaries - satisfied with establishing title to property.
  - (a) Informal application for probate of will and appointment of spouse as P.R.
  - (b) Letter advising client of what you have done and why.
  - (c) Tax returns.
  - (d) Deed from spouse as P.R. distributing property to spouse as heir.
  - (e) Forms:

COURT HEADING

APPLICATION FOR INFORMAL  
PROBATE AND APPOINTMENT

Your applicant respectfully shows:

1. He is the spouse of \_\_\_\_\_.
2. \_\_\_\_\_ died on the \_\_\_\_ day of \_\_\_\_\_, 1973 at the age of \_\_\_\_ years. At the time of her death, decedent was domiciled in \_\_\_\_\_ County, Idaho. Decedent is survived by the following persons:

3. No personal representative of the decedent has been appointed in this state or elsewhere.

4. Applicant has not received a demand for notice and is not aware that any demand for notice of probate or appointment proceedings has been filed in this court or elsewhere.

5. An estimate of the total assets of the estate has been sent to the State Tax Commission.

6. The decedent's will was executed on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_, and the original of this will accompanies this application.

7. To the best of applicant's knowledge, this will was validly executed and, after the exercise of reasonable diligence, applicant is unaware of any instrument revoking this will and believes this to be the last will of decedent.

8. The time limit for informal probate and appointment has not expired.

9. Applicant is entitled to appointment as personal representative because he was nominated as executor by decedent's will.

WHEREFORE, applicant prays that decedent's will be admitted to informal probate and that he be appointed personal representative of the estate of decedent.

\_\_\_\_\_  
Applicant  
\_\_\_\_\_  
Address

VERIFICATION

-----  
COURT HEADING

STATEMENT OF INFORMAL  
PROBATE AND APPOINTMENT

The application of \_\_\_\_\_ for informal probate of the will of \_\_\_\_\_ and for his informal appointment as personal representative of the estate of decedent having been presented to the Court on this \_\_\_ day of \_\_\_\_\_ 19\_\_\_ and it appearing to the Court that the application is complete and contains the applicant's oath or affirmation that the statements

contained therein are true to the best of his knowledge and belief, the Court makes the following findings based upon that application:

1. \_\_\_\_\_ died on the \_\_\_\_ day of \_\_\_\_\_ 19\_\_ and more than five (5) days have elapsed since decedent's death.
2. The applicant, spouse of decedent, is an interested person.
3. Venue is proper because \_\_\_\_\_ County was the domicile of decedent.
4. The original, duly executed and apparently unrevoked will of the decedent is in the Court's possession.
5. The time limit for informal probate and appointment has not expired.
6. A personal representative has not been appointed for this estate in this or any other state and neither this nor any other will of the decedent has been the subject of a previous probate order.
7. \_\_\_\_\_ was nominated as executor by \_\_\_\_\_  
\_\_\_\_\_ 's will and is entitled to act as personal representative.

NOW, THEREFORE, IT IS ORDERED That:

1. The application for informal probate is granted and the will of \_\_\_\_\_ dated the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, is hereby admitted to informal probate.
2. The application of \_\_\_\_\_ for informal appointment as personal representative is hereby granted and he is hereby appointed personal representative of the estate of \_\_\_\_\_ to serve without bond.
3. Letters Testamentary shall be issued to \_\_\_\_\_ upon his qualification and acceptance.

DATED this \_\_\_\_ day of \_\_\_\_\_, 1973.

\_\_\_\_\_  
Magistrate

COURT HEADING

LETTERS,  
DEED OF DISTRIBUTION and  
LETTER TO CLIENT  
See 1 A above.

COURT HEADING

LETTERS TESTAMENTARY  
See 1 A 1 e above

COURT HEADING

PERSONAL REPRESENTATIVE'S DEED  
DISTRIBUTING PROPERTY OF  
THE ESTATE

\_\_\_\_\_ personal representative of the estate of \_\_\_\_\_  
\_\_\_\_\_ does take possession of the estate of \_\_\_\_\_  
\_\_\_\_\_ and does, by this instrument, deed and set over all  
property of \_\_\_\_\_, including the following described real  
property located in \_\_\_\_\_ County, Idaho:

to \_\_\_\_\_, the husband of decedent and her only devisee  
who lives at \_\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 197\_\_.<sup>1</sup>

\_\_\_\_\_  
Personal Representative

ACKNOWLEDGEMENT

<sup>1</sup> This deed should be recorded. The will should  
not be recorded.

(2) Surviving spouse. There is a second family. There is no concern about creditors.

(a) Summary Administration. § 15-3-1205.

(i) Available in testate cases.

(ii) What happens if this is followed by a petition for appointment as Personal Representative.

(b) Tax returns.

(c) Forms:

COURT HEADING

PETITION FOR SUMMARY ADMINISTRATION

\_\_\_\_\_, surviving spouse of \_\_\_\_\_ petitions for Summary Administration of his estate. Your petitioner alleges and states:

1. Petitioner and \_\_\_\_\_ were married on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_, at \_\_\_\_\_.

2. \_\_\_\_\_ died at \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_ 19\_\_\_.

3. At the time of his death, \_\_\_\_\_ was a domiciliary of the County of \_\_\_\_\_, State of Idaho.

4. \_\_\_\_\_ left a will dated the \_\_\_ day of \_\_\_\_\_ 19\_\_\_, this will is the last will of the decedent and the original of the will accompanies this petition.

5. Petitioner also left surviving him the following children:

Name	Address	Age
------	---------	-----

and they and petitioner are the heirs of decedent.



6. Petitioner does assume liability for any and all indebtedness which might be a claim against the estate of decedent.

WHEREFORE Your petitioner prays that the will of decedent be admitted to Probate and that Summary Administration of this estate be granted as provided in Idaho Code Section 15-3-1205, and that a time and place be set for hearing this petition.

DATED this \_\_\_\_ day of \_\_\_\_\_, 1973.

\_\_\_\_\_  
Petitioner

VERIFICATION

-----  
COURT HEADING

NOTICE OF HEARING<sup>1</sup>

Please be advised that at 10:30 a.m. on the \_\_\_\_ day of \_\_\_\_\_, 1973, the Magistrate's Court at \_\_\_\_\_, Idaho, will hear a petition for Summary Administration of the estate of \_\_\_\_\_ and probate of his will at the county courthouse in that city.

DATED This \_\_\_\_ day of \_\_\_\_\_ 1973.

\_\_\_\_\_  
Petitioner

<sup>1</sup>This notice must precede the hearing by at least 30 days.  
-----

COURT HEADING

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE UPON SUMMARY ADMINISTRATION

The Court having reviewed the petition and heard the evidence presented by petitioner does make the following findings of fact:

1. \_\_\_\_\_ died on the \_\_\_ day of \_\_\_\_\_ 1973, at \_\_\_\_\_ and, at the time of his death, was domiciled in \_\_\_\_\_ County, Idaho.

2. \_\_\_\_\_ and decedent were married at \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, 19\_\_.

3. Decedent left a will dated the \_\_\_ day of \_\_\_\_\_ 19\_\_ and this is the last will of decedent.

4. Petitioner, the widow of decedent, is the sole devisee of that will.

5. Proper notice as required by law has been given.

The Court does make the following Conclusions of Law:

1. The will of \_\_\_\_\_ should be admitted to probate.

2. \_\_\_\_\_ is entitled to Summary Administration of decedent's property and all of his property should be distributed to her.

DECREE OF DISTRIBUTION

The Court, having made the foregoing Findings of Fact and Conclusions of Law does here Decree that all of the property of decedent should be and the same is hereby distributed to \_\_\_\_\_, his widow.<sup>1</sup>

DATED this \_\_\_ day of \_\_\_\_\_ 19\_\_.

\_\_\_\_\_  
Magistrate

<sup>1</sup> This decree must be recorded. The will should not be recorded.

(3) Property is to be divided among children equally. No surviving spouse.

- (a) Informal probate of will.
- (b) Informal appointment of P.R. named in will.
- (c) Inventory, notice to creditors, tax returns.
- (d) Formal or informal closing of estate.
  - (i) When.
  - (ii) If formal, petition for determination of testacy status.
- (e) For Forms, see I A 2 e and I B 1 e above

(4) Property is left one-third to second husband and two-thirds to be divided equally among children of first marriage.

- (a) Formal testacy.
- (b) Informal appointment.
- (c) Inventory, notice to creditors, tax returns.
- (d) Sale of property to obtain funds for payment of taxes and estate obligations.
  - (i) Is notice to beneficiaries or to public necessary?
  - (ii) Request for notice.
- (e) Formal closing.
- (f) Forms:

COURT HEADING

PETITION FOR FORMAL TESTACY DETERMINATION AND APPOINTMENT

Your petitioner respectfully states to the Court:

1. Your petitioner is the husband of \_\_\_\_\_.
2. \_\_\_\_\_ died on the \_\_\_ day of \_\_\_\_\_,

1973, at the age of \_\_\_ years. At the time of her death, she was domiciled in \_\_\_\_\_ County, Idaho. Decedent was survived by her husband, your petitioner, and the following children:

<u>Name</u>	<u>Address</u>	<u>Age</u>
-------------	----------------	------------

Your petitioner is the sole devisee named in decedent's will.

3. Decedent's last will was executed on the \_\_\_ day of \_\_\_\_\_, 19\_\_ and accompanies this petition.

4. This will of decedent was validly executed, not revoked, and is the last will of decedent.

5. No personal representative of the estate of decedent has been appointed in this state or elsewhere.

6. Petitioner has not received a demand for notice and is not aware of a demand for notice of any probate or appointment proceedings having been filed with this court or elsewhere.

7. Petitioner is entitled to be appointed as personal representative because he is nominated as executor in decedent's will.

8. An estimate of the total assets of this estate has been sent to the State Tax Commission.

WHEREFORE, Petitioner prays that the Court fix a time and place for hearing, that the proffered will be admitted to probate and that your petitioner be appointed as personal representative.<sup>1</sup>

\_\_\_\_\_  
Petitioner

VERIFICATION

<sup>1</sup> Someone may file a request for bond or for supervised administration.

-----  
COURT HEADING

NOTICE

Notice is hereby given that \_\_\_\_\_ has filed a petition for formal testacy determination and appointment as personal representative in the above named estate and that a hearing has been set upon this petition for the \_\_\_ day of \_\_\_\_\_ 1973, at the Courtroom of the above named

Court in \_\_\_\_\_ County, Idaho.<sup>1</sup>

Dated this \_\_\_\_ day of \_\_\_\_\_, 1973.

\_\_\_\_\_  
Petitioner  
Address

<sup>1</sup> Notice must be published (to reach all unknown persons) and sent by mail to the spouse, children, other heirs, devisees named in the will and the executor. § 15-3-403(a)

- - - - -

COURT HEADING

ORDER DETERMINING TESTACY  
AND Appointing  
PERSONAL REPRESENTATIVE

The petition of \_\_\_\_\_ for formal testacy determination having come before the Court, the Court having heard the evidence and being fully advised in the premises does make the following findings:

1. \_\_\_\_\_ died on the \_\_\_\_ day of \_\_\_\_\_, 1973, while domiciled in \_\_\_\_\_ County, Idaho.
2. Decedent died testate, having properly executed a will on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, which was the last will of decedent.
3. All notices required by law have been given.
4. No personal representative has been appointed in this state or elsewhere.
5. \_\_\_\_\_ is nominated by the will of decedent as her personal representative.
6. No objections to probate of the will have been filed nor have any objections to the appointment of \_\_\_\_\_ as personal representative been made.

7. The heirs of decedent are:

<u>Name</u>	<u>Relationship</u>	<u>Age</u>	<u>Address</u>
-------------	---------------------	------------	----------------

8. The devisees named in this will are:

One-third of the estate to \_\_\_\_\_, husband of the decedent.

Two-thirds of the estate to be divided equally among \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, children of the decedent.

9. An estimate of assets has been sent to the State Tax Commission.

NOW, THEREFORE, IT IS ORDERED AND DECREED THAT:

1. The decedent died testate and her will dated the \_\_\_ day of \_\_\_\_\_, 19\_\_ is admitted to probate.

2. \_\_\_\_\_ is appointed personal representative of decedent's estate to serve without bond.

3. Letters Testamentary will be issued to \_\_\_\_\_ upon his taking the necessary oath and accepting the office.

\_\_\_\_\_  
Magistrate

Inventory, Notice to Creditors, Proposal for distribution of estate by personal representative, deed of distribution and formal closing settling estate and approving distribution (without a testacy determination which has in this case, been made) would follow the pattern set out in I A 3 i above.

II. THE USE OF FORMAL OR INFORMAL PROCEEDINGS.

A. Testacy Determinations.

- (1) Notice Requirements.

B. Effect on Title:

- (1) Where there is administration of estate.
- (2) Where there is no administration.

C. Requests for instructions.

- (1) Confirming sale to pay taxes and estate obligations.
  - (a) Effect on federal tax lien.
- (2) Payment of doubtful claim of creditor.
- (3) Compromising debt.
- (4) Arranging for payment of contingent or immature obligation.
  - (a) Rental payments on long term lease.

III. CLOSING ESTATES

A. Distribution in kind.

- (1) Distribution of undivided interests.
- (2) Proposal for distribution.
- (3) Sale of property and distribution of cash.
- (4) Partition.

B. Distribution accompanied by a petition for settlement of estate and confirmation of distribution.

C. Decree of distribution and order settling estate.

- (1) What is the effect upon § 15-3-910?

D. Informal closing:

- (1) How.
- (2) Effect.
- (3) When.

REPORT OF THE EXECUTIVE DIRECTOR

COMMITTEE REPORTS

FINANCIAL REPORTS

RESOLUTIONS

IDAHO STATE BAR

1973 ANNUAL MEETING

SUN VALLEY, IDAHO



The 1972-1973 fiscal year, as you all are aware, has been an eventful one for the Idaho State Bar, particularly in the areas of admissions and discipline. During this year, 113 examinees have applied to take the Idaho Bar. As of this date 72 have been admitted. The Board of Commissioners has considered 59 discipline cases. Of these, 39 have been dismissed, one resulted in a disbarment, four attorneys were suspended and there are three recommendatory orders asking for disbarment now pending before the Idaho Supreme Court.

This year, the membership of the Idaho State Bar reached an all time high with a total of 825 license paying members. This does not include judges and lawyer magistrates who are exempt from paying license fees.

For the first time this year the Idaho State Bar's Client's Security Fund, established in 1969, was put into operation. Claims against two lawyers totalling \$10,000 were authorized for payment by the Board of Commissioners.

Also, this year the new Lawyer Referral Service went into operation. A total of 450 Idaho attorneys signed up as panelists on the Lawyer Referral Service. In a little less than six months more than 100 referrals were handled out of the State Bar office. We believe this service to be an excellent method of getting potential fee paying clients together with a lawyer willing to handle their case. We trust that the Bar will continue to support this excellent activity of the Idaho State Bar.

Our Continuing Legal Education program continues to prosper. In this past fiscal year five courses were given for Idaho lawyers in five locations, a total of 725 attorneys attended these institutes. Additionally, the Idaho State Bar provided courses on the Uniform Probate Code for the Idaho Bankers Association and for the Alaska Bar Association. Both of these activities pose a small profit for our CLE program. Also, almost 100 law students attended at a reduced registration fee.

Although a more detailed financial report is given in another section of this book, a brief capitulation is in order to show the Idaho State Bar's financial position. Briefly, we had revenue of \$119,976.97. We spent \$118,891.31, leaving an excess balance of \$1,085.66. Needless to say our budget must be very close because of our limited financial resources. Our gross fee income was \$73,897.56, income from other sources was \$25,947.50 and CLE income was \$19,902.10. From this income, we paid \$8,692.00 to local Bar Associations and contributed to the Client Security Fund. Our Client's Security Fund currently is \$19,235.00.

You will note on the detailed financial statement that a great amount of our office expenditures goes for telephones and postage, - communications to the members.

We hope that we in the State Office are reflecting your desires, and if we are not I hope you will let us know how we can be of further assistance to you as practicing lawyers.

I do want to thank my fine staff, Gloria Rinehart, Sally Swanholm and Diane Christy for service above and beyond the call of their duties and I shall look forward to continuing to serve you.

Respectfully submitted,

RONALD L. KULL  
Executive Director  
Idaho State Bar

REPORT OF THE BAR-PRESS COMMITTEE  
OF THE IDAHO STATE BAR

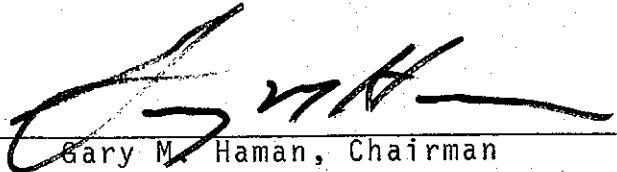
---

1972-1973

Members of the Bar-Press Committee of the Idaho State Bar for the past year were Gary M. Haman, Coeur d'Alene, Chairman; John Ferebauer, Idaho Falls; and Jay Webb, Boise.

Copies of the Fair Trial-Free Press compact were printed in accordance with the decision of the committee made in 1972 (see 1971-1972 committee report.). To the date of this report, approximately 250 copies of the compact have been distributed to the news media agencies, prosecuting attorneys, police agencies and journalism schools throughout Idaho.

No violations of the Fair Trial-Free Press Compact, or any other problems concerning the responsibilities of this committee have been reported or referred to us during the past year.

  
\_\_\_\_\_  
Gary M. Haman, Chairman

LAW OFFICES OF  
COUGHLAN, IMHOFF, CHRISTENSEN & LYNCH  
608 HAYS STREET  
BOISE, IDAHO 83702

GLENN A. COUGHLAN  
JOSEPH M. IMHOFF, JR.  
JIM CHRISTENSEN  
JAMES B. LYNCH

May 7, 1973

TELEPHONE 208-342-3656

Ron Kull  
Executive Director  
P.O. Box 835  
Boise, Idaho

report of :  
RE: BAR policy and position in  
public matters committee

Dear Ron:

This committee of course, has been unable to meet however, several matters have been submitted for consideration. Among them are the following: a public position supporting a federal standard of care for the mentally ill and mentally retarded; bail reform pursuant to guidelines laid out in the Federal Bail Reform Act of 1966; support of uniform residential landlord and tenant act; model land development code.

Regarding the problem concerning overcrowding of magistrates calendars on preliminary hearings for indictable misdemeanors it is recommended that in conformance with the decision of Collins v. Crowley, 19 ICR 453, July 26, 1972, that the Idaho Code Section 18-113 be amended to provide that punishment for a misdemeanor should not exceed one year in a county jail or by a fine not exceeding \$300.00.

Regarding the proposal received from E. Don Copple chairman of the House Judiciary Rules and Administrative Committee concerning increasing categories of exempt property, generally increase meets with approval as contained in the material submitted. However, the escalator clause on dollar amounts is generally disapproved as being too complex and too difficult as to administration. We believe that the amounts should be fixed for ease and administration rather than the complex measure as set out in the proposal.

Your chairman believes that this committee could function more effectively if the BAR Commissioners were willing to authorize a meeting for this committee. Perhaps expense could be minimized by having three separate meetings; one in the north, one in the central part and one in the southeastern

Ron Kull  
May 7, 1973  
Page -2-

part and in this fashion expenses could be held down and then some method of corrolating the opinions and recommendations on various matters submitted. In any event the committee would be happy to follow whatever format the Commissioners might set, and we would be happy to hear from the Commissioners in this regard.

Respectfully submitted,

  
GLENN A. COUGHLAN

GAC:pd

# Morrison-Knudsen Company, Inc.

CONTRACTORS - ENGINEERS - DEVELOPERS

SAMUEL H. CROSSLAND  
CORPORATE SECRETARY  
AND  
GENERAL COUNSEL

EXECUTIVE OFFICE  
400 BROADWAY  
P. O. BOX 7808, BOISE, IDAHO 83707

June 15, 1973

Ronald L. Kull, Esq.  
Executive Director  
Board of Commissioners of the  
IDAHO STATE BAR  
P. O. Box 835  
Boise, Idaho 83701

Dear Mr. Kull:

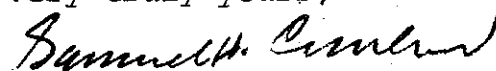
This is in response to your request that I report to you and to the Bar on the activities of the Committee on Corporate Law and Business Entities for the year 1972-73.

On April 4th, 5th and 6th, the Committee put on a Corporate Counsel Workshop at Sun Valley. Although the great majority of the 23 lawyers that attended this workshop were from Idaho, we did have attendees from as far east as St. Louis, and as far west as San Francisco. All who participated in this workshop, I believe, benefited from it and the tenor of comments received were to the effect that it was sufficiently worthwhile to justify repeating next year.

The topics covered at the workshop included an updating on Anti-trust Laws by Thomas A. Dieterich, New York City; the Occupational Safety and Health Act, Chairman Robert D. Moran, Washington, D. C.; Revenue Bond Financing, Richard McCostis, New York City; Securities Law, Herbert Wander, Chicago and Environmental Law, Professor Arnold Reitze, George Washington University, Washington, D.C.

Again, this workshop project can only be described as successful and it is my hope that we can begin to plan shortly for another one in 1974.

Very truly yours,



Samuel H. Crossland

pz

LAW OFFICES  
BENOIT, BENOIT & ALEXANDER

TWIN FALLS BANK & TRUST BLDG.  
POST OFFICE BOX 366  
TWIN FALLS, IDAHO 83301

HARRY BENOIT 1893-1966  
EDWARD L. BENOIT  
J. ROBERT ALEXANDER  
ROBERT M. HARWOOD

AREA CODE 208  
TELEPHONE 733-5463

June 18, 1973

ANNUAL REPORT  
COMMITTEE ON CONTINUING LEGAL EDUCATION  
OF THE IDAHO STATE BAR

TO: THE COMMISSIONERS OF THE IDAHO STATE BAR

As Chairman for the Committee on Continuing Legal Education, it is my pleasure to summarize the activities of your Committee for the past year.

On September 15, 1972 an Institute on Advising Growing Businesses was held in Moscow, Idaho. Members of our own State Bar were used as speakers for that meeting. We had an excellent turnout including a good percentage of the student body of the College of Law. Dean Menard reported that the students were very pleased with the Institute and with our invitation that they attend for a token registration fee. That program was again held in Boise on March 16, 1973 with an attendance of thirty-eight practicing lawyers.

Because of the Port project in Lewiston, it was the decision of your Committee to organize a Condemnation Seminar in Lewiston on October 27, 1972. That Institute was attended by thirty-three practicing lawyers from the Lewiston area who were very interested in this rather unique area of the law.

On November 24, 1972 an Institute was held in Boise developing the use of the Economic Expert in trial work. That seminar was attended by sixty-five lawyers.

On April 4, 5 and 6, 1973, a workshop for In-House Corporate Counsel was held in Sun Valley. This Institute was attended by twenty-three corporate lawyers resident in the State of Idaho.

The first and second weeks in June, 1973, an Institute on Estate Planning and Uniform Probate Code was held in Idaho Falls and Boise with a total attendance of one hundred fifty-four attorneys.

In addition to our own local seminars, we also cooperated in an Institute on Probate for Bankers on May 4th and 5th in Anchorage, Alaska. This seminar attracted one hundred fifty-three lawyers from the Anchorage area and resulted in an excellent materials sale for the Idaho State Bar.

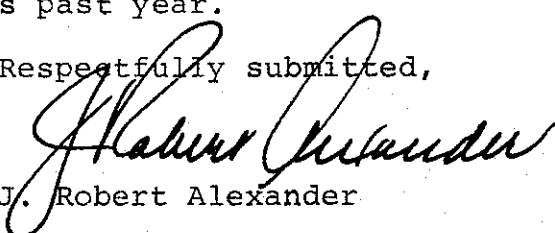
All in all it was the feeling of the Committee this year, that we have been able to reach a considerable number of practitioners interested in specialized areas that we had not been able to serve in the past with a more general type practice Institute.

We have planned for this Fall, what we feel will be two excellent programs. The first is scheduled for early September and will be designed to cover Pre-Trial Investigation, Discovery, Case Evaluation and Pre-Trial Negotiations. We believe that usually the CLE program is designed to bring the practicing lawyer up to date on trial techniques and in large part does not cover 90% of the trial lawyers' work which deals with pre-trial case development. We will have an excellent set of materials which we hope will be useful to the practicing lawyer, which materials will include economic evaluation for the wrongful death case, medical evaluation for the personal injury case, and a good set of pre-trial discovery depositions. For that meeting we are using a set of facts drawn from an actual case in Idaho. That program will also present a refreshing approach to negotiations which will be in a person of a professional negotiator who has had a wealth of experience in the negligence field.

For our second Fall Institute, we have planned a general practice seminar which will touch on many areas of the day to day practice and will attempt to bring the Idaho lawyer up to date on a number of new practice tools and methods.

It is hoped by your Committee, that we have served the Bar well this past year and we are pleased to report that again the Executive Director of the Bar, Mr. Kull, has provided excellent leadership and expertise in this field. We wish to recognize his outstanding contribution to the CLE programs in Idaho. Our thanks to all who have served the Committee so graciously this past year.

Respectfully submitted,

  
J. Robert Alexander

JRA/ce



**Isaac McDougall**  
Attorney and Counselor at Law  
Pocatello, Idaho  
83201

June 8, 1973

11

John M. Sharp, President  
Board of Commissioners  
Idaho State Bar  
P.O. Box 895  
Boise, Idaho 83707

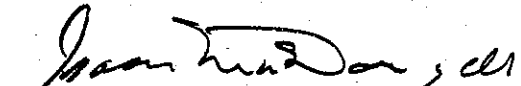
Re: Report of Economic Committee

Dear John:

By way of report of the activities of the Economic Committee of Idaho State Bar, please be advised that the committee prepared an economical survey questionnaire, but that in as much as a federal investigation was commenced upon the advise of counsel they tabled the matter.

The committee further prepared a relative value study on the practice of law, the results of which are attached. It is the opinion of the committee that despite the federal investigation and the blooming anti-trust developments over the country that a relative value study should be adopted by the Idaho State Bar as a guidance for our young lawyers so that they can understand the amount of time involved on various elementary legal procedures and make the necessary financial arrangements with their clients their own charging rate.

Best person regards,

  
Isaac McDougall

IM/feh

## RELATIVE VALUE STUDY

IDAHO STATE BAR

By

The Committee on Professional Economics

Because of lawyer dissatisfaction with the Advisory Fee Schedule of the Idaho State Bar and because of legal challenges generally to fee schedules, the Board of Commissioners in 1972 asked the Professional Economics Committee of the Idaho State Bar to undertake a study of possible alternatives to the Advisory Fee Schedule.

It was felt by the Board that even though a fee schedule could not -- and should not -- be mandatory, lawyers still need some means of guidance in estimating fees for future work, and for ascertaining that the fees charged are not unreasonably high or low, according to the custom of their community and the state as a whole. With these objectives in mind, the Board commissioned the preparation of the Relative Value Study.

First, what is a Relative Value Study? It is a review and comparison of the relationship between professional services in different classifications and categories, compared through the assignment of point or unit values to the services. The point or unit value of each service, function or process has been determined by giving consideration to the degree of skill required, complexity of the services and time expended. It is NOT a fee schedule. It represents an expression of the relative worth of one kind of legal service to another through the device of reflecting such services in a common denominator of a "point" or "unit" value. It leaves to the individual or firm the determination of converting the point or unit value to an agreed monetary evaluation.

There are several ethical aspects which affect the fixing, collecting and division of fees. Although the Code of Professional Responsibility as adopted in Idaho largely deletes the fee enforcement provisions of the Model Code, the following guidelines in the setting of fees are still pertinent from an ethical standpoint:

1. The amount of time involved.
2. The difficulty of the question.
3. The amount of skill required.
4. The potential loss of other employment.
5. Local custom.
6. The amount of money involved.
7. The benefit to the client.
8. The contingency or uncertainty of payment.
9. Whether the client is a casual or steady one.

No one factor should be controlling.

This Relative Value Study, as do all fee studies, envisions only the ordinary and usual type of case. Naturally, if the case involved is more simple or more complex than the ordinary matter the fees should be adjusted accordingly. Likewise, if the service is within the particular expertise of the lawyer, that expertise should be considered in establishing the fee.

Also, the Committee, in formulating this study, sought to eliminate the differences found in the previous schedule in fee charges between the various courts (i.e., District and Magistrate courts, etc.). It was felt that there should not be a significant difference in the time or skill which might be expended before one court or the other. The Committee also sought to eliminate different fee practices between different types of civil practice.

In most instances, the committee felt there should not be a distinction between various types of civil and criminal litigation. In the context of the Relative Value Study, it was felt that the various processes and services related to litigation ( with certain special proceedings excepted ) ought to bear the same relationship to each other, whether the process involved divorce, administrative practice, or whatever type of litigation, and whether the action pends in the United States District Court, State District Court, Magistrates Court, or before an administrative board.

It must be emphasized that the point values assigned to each specific item in the study have no independent significance; each such point value is only an expression of the relative value of that item to the other items listed in the study. Again, it is not a fee schedule. It is a tool through which an attorney, after using his own experience and background in developing a fee for a particular service, can interpolate that fee, through the use of the relative values set forth in the study, to estimate or determine comparable charges.

A special comment must be inserted with respect to the fees charged for the administration of decedents' estates. The prior advisory fee schedule, consistent with the prior law on administration of decedents' estates, contemplated fees based upon a percentage of the estate being administered. With the advent of the Uniform Probate Code, and the extreme pressure for probate reform which brought it about, the committee felt it essential that the approach to probate fees be reevaluated in its entirety. The committee felt that the continued approach of establishing probate fees as a percentage of the estate being administered was inadvisable. The use of percentage fees, in effect, penalizes the estate which has been carefully planned through carefully prepared wills, trust agreements, and other

estate-planning devices as opposed to the estate which has not. Further, the flat percentage fee does not recognize any distinction between the legal and administrative effort involved between the highly liquid estate -- consisting, for example, solely of cash or marketable securities -- and the more complex situation where the estate may consist of closely held business interests and properties which are not only difficult to value and market, but are also difficult to administer.

Because of the inherent inequities of a percentage fee approach, strengthened by the increasing challenge on the part of the general public for justification of the necessity of probate procedure, and the costs thereof, the committee recommends that the percentage fee approach be discarded.

The committee recommends that probate fees be founded solely upon time and responsibility assumed, without undue regard to the size of the estate being administered. To implement this recommendation, the committee has assigned a relative value to the initiation of the probate, a value for subsequent proceedings, and for routine court hearings. Since the Uniform Probate Code offers the flexibility of determining whether or not subsequent proceedings are necessary, the committee recommends that each such proceeding be independently valued for fee determination purposes and that a fee be assessed for each such procedure as is required. Routine matters pertaining to the administration of estates such as review and payment of creditors' claims, matters pertaining to the collection of insurance benefits, and other related matters should be charged for at fees consistent with the attorney's regular office practice. Matters involving the estate and pertaining to real estate transactions, corporate matters, litigated or other contested proceedings, should likewise bear fees consistent with real estate, corporate, and

litigation matters regularly and routinely handled by the attorney for non-estate clients. It is the feeling of the committee that approaching estate fees on this basis will result in probate fees that more equitably, justifiably and reasonably reflect the services performed than will the arbitrary application of fees based upon a flat percentage.

No recommendation is made in the area of contingent fees because it is the feeling of the Committee that these matters are so unusual and varied that to attempt to recommend a specified percentage would be unrealistic and unwarranted.

LITIGATION PROCEDURE BEFORE DISTRICT AND MAGISTRATE COURTS  
AND ADMINISTRATIVE BOARDS

	Unit Value
Initial assignment through filing complaint or petition (if plaintiff) or defense appearance or answer (if defendant)	5
Drafting and filing of ordinary motion, including routine default papers, not requiring original drafting, briefing, or supporting memoranda	1
Drafting and filing motions requiring original drafting, briefing, and/or supporting memoranda, including summary judgment, post judgment motions, etc.; including supporting affidavit and memoranda	6
Court appearance on motions -- regular law and motion day, routine motion	2
Court appearances on motions -- special setting or extended hearing	Same as trial
Trial or hearing on merits:	
First day	10
Second day and thereafter	8
(Partial trial days should be prorated according to the above schedule.)	

## Discovery

Oral depositions -- notice, preparation,  
attendance and first hour 3

(If extensive deposition, same as  
trial.)

## Pre-trial conference

Drafting required memoranda, with court  
appearance through first hour. 6

(If extensive court hearing, same as  
trial.)

Preparation of stipulated settlement documents 2

(including basic property settlement  
agreement)

Drafting of special documents, interrogatories  
legal research, investigation,  
consultation beyond basic assignment,  
and settlement negotiations 1 per hr.

## Special proceedings

Adoption 4

Dissolution of partnership or corporation 8

## DECEDENTS ESTATES

Initial assignment through application or petition. 8

" If all community, all to surviving spouse 5

Subsequent petitions 4

## Court hearing:

Routine 2

Extensive or contested Same as trial



Preparation of inheritance tax return--no tax due	2
Preparation of federal estate tax return or inheritance tax return with computation of tax	1 per hr.
Routine administration (Real estate, corporate, litigation, or other matters as set for herein. Extraordinary matters at factor including complexity and responsibility assumed.)	1 per hr.

**BANKRUPTCY**

Voluntary -- no assets, not in business	10
assets or in business	15
wage earner	8
Involuntary proceedings, defense, etc. same as litigation procedure	
Preparation of creditor's claim	.5

**OFFICE PRACTICE**

**Corporations:**

Organizing, through first meeting of stockholders and directors	12
Additional Value: more than routine organization is necessary; i.e., Buy-sell or Restrictive Stock Purchase Agreements, special action to structure or avoid tax consequences, etc.	1 per hr.
Annual meetings, notice, attendance, and minutes	
routine	1.5
special	3

Qualifying foreign corporation in Idaho	3
General and continuing corporate representation	1 per hr.
Instruments	
Preparation or completion of forms (including deeds, trust deeds, general powers of attorney, promissory notes, bank resolutions, liens, UCC security agreements, etc., including assignment conference	1
Standard contracts	
Land sale contract with escrow and deeds	3
Residential lease or rental agreement	2
Commercial lease	4
Simple will	2
Bulk sales compliance -- notices, etc.	4
General partnership -- simple	5
Limited partnership -- simple	8

Commissioners  
Carey H. Nixon  
Willis E. Sullivan  
Jess B. Hawley, Jr.

CODE COMMISSION  
State of Idaho  
P. O. Box 1253  
Boise, Idaho 83701

Randall Wallis  
Executive Secretary

May 24, 1973

Board of Commissioners  
Idaho State Bar  
P. O. Box 835  
Boise, Idaho 83701

Gentlemen:

As requested by your Secretary, the following is a report of the Idaho Code Commission to be presented at the Annual Meeting of the Idaho State Bar to be held July 11-14, 1973, at Sun Valley, Idaho, covering the period since the last Annual Meeting:

Carey H. Nixon was re-appointed to the Commission for a term expiring December 1, 1978, the remaining members being: Willis E. Sullivan, Sr., term expiring December 1, 1974; Jess B. Hawley, Jr., term expiring December 1, 1976; and Randall Wallis, Executive Secretary, term indefinite.

The republication of Volume 11 into Volumes 11 and 11A were completed and delivered at a cost to the Commission for the 1000 sets purchased for the State of Idaho of \$43,000.00.

The 1972 Cumulative Supplement to the Code was prepared and delivered at a cost of \$49,500.00 for the 1000 sets provided the State and County officials.

The Commission is negotiating for the preparation of the 1973 Cumulative Supplement and it is anticipated that the cost thereof will be \$52.50 per set at a total cost to the Commission of \$52,500.00. Every effort will be made to have the delivery of this Supplement accomplished on or prior to August 15, 1973.

The Commission has not yet had a year's experience as to what the increased fees from \$2.00 to \$4.00 will provide the Code Fund, but so far the increase has been sufficient to pay for the foregoing publications and there should be sufficient in the Fund to pay for the 1973 Supplement at the time of its delivery.

In view of the increasing costs, and Annual Sessions versus Bi-ennial Sessions, and the fact that we have no firm figures of funds available, the Commission at this time is unable to plan for any republications of volumes in the immediate future.

Since 1908, Idaho has had four Code compilations. The Idaho Revised Codes was printed in 1908. In 1918 a compilation was prepared which was later held to be ineffective, and in 1919 the Idaho Compiled Statutes were prepared. These served until 1932 when the statutes were compiled as Idaho Code Annotated. The Idaho Code that we have today was authorized and published in 1947. The first three Codes had no pocket parts or method of keeping the same current except by reference to Session Laws. The Idaho Code is maintained current by cumulative pocket supplements and by republished individual volumes from time to time. Thus it can be seen that the first Code publication was useful for a period of 11 years, the Idaho Compiled Statutes was useful for a period of 13 years, and the Idaho Code Annotated for a period of 15 years. The Idaho Code, by the technique of republished individual volumes and cumulative supplements has remained, and is still, a viable and useful publication after 26 years.

By resolution of the members of the Bar, the Code Commission and the State Bar Association were requested to study the possible use of a looseleaf code. The Bar Commission has already reported to you in the Advocate that from its study, such a looseleaf code was not practical either financially or physically, and it did not recommend its use. The Code Commission came to the same conclusion after considerable investigation with various libraries and publishers and weighing the very few advantages against the many disadvantages. The Commission found that only six states were now using a looseleaf type code and that one of those, Kentucky, was compiling into permanent volumes. Of the remaining five states, we found that in some instances the pages were so voluminous that the time and energy of the lawyer or his secretary in replacing pages, with the possibilities of error, was excessive, and still at a price considerably higher than the supplements provided for the Idaho Code. In all cases the cost of the looseleaf service exceeded the cost of the cumulative supplements. In each case the Commission also found

Board of Commissioners  
Idaho State Bar


May 24, 1973  
Page Three

that the delivery dates of the republished looseleaf pages were greatly delayed and in most instances were not received for nearly a year after the adjournment of the legislature. In at least two states there were two codes published, one looseleaf and one permanent. In Ohio the number of lawyers using the bound volume set far exceeds that of the looseleaf set. Publication of books is very expensive, and the economic loss would be great to abandon the investments that lawyers and courts have made in the existing workable sets if they were to be replaced by an expensive new set of codes in a form that has not proved to be most desirable. From all of the foregoing, the Idaho Code Commission advised the Bar Commissioners that it concurred in not recommending republication into looseleaf sets.

Respectfully submitted,

IDAHO CODE COMMISSION

By

  
\_\_\_\_\_  
Randall Wallis  
Executive Secretary

RW:sk

LAW OFFICES OF  
RACINE, HUNTLEY & OLSON

CENTER PLAZA - CORNER FIRST & CENTER

POST OFFICE BOX 1391

POCATELLO, IDAHO 83201

TELEPHONE [208] 232-6101

LOUIS F. RACINE, JR.  
ROBERT C. HUNTLEY, JR.  
WILLIAM D. OLSON

D. JAMES MANNING

June 4, 1973

Mr. Ronald L. Kull  
Executive Director  
Idaho State Bar  
Box 835  
Boise, Idaho 83701

Dear Ron:

Re: Idaho Pattern Jury Instructions

A portion of the Committee met on June 2 at the Supreme Court Building in Boise for the purpose of attempting to finalize the Pattern Jury Instructions. The comments as received from the various bar associations and others were reviewed and, where it was considered justified, corrections were made. As a result of some of those corrections, some additional time will be required to complete the final product, but I believe it was considered probable by those present at the meeting, that the work is substantially completed at this time and will be available for printing and circulation to the Bar and the Judiciary yet this summer.

Robert Jones and Judge Bellwood have done a tremendous amount of work on this entire project, and I do desire to extend my personal appreciation and thanks.

Sincerely,

  
LOUIS F. RACINE, JR.

LFR/t

cc: The Honorable Charles R. Donaldson  
The Honorable Sherman J. Bellwood  
Mr. Robert Jones  
Mr. John M. Sharp

REPORT OF THE LAWYER REFERRAL AND LEGAL AID COMMITTEE  
1972 - 1973

---

To: Board of Commissioners of the Idaho State Bar

This is the first annual report of this Committee following its establishment by the Idaho State Bar. The report is as follows:

Following establishment of the Committee by the Board of Commissioners of the State Bar pursuant to resolution of the Bar, the Committee proceeded to set up the machinery to operate the lawyer referral service which is the new area of responsibility for this Committee. The legal aid responsibilities of this State Bar Committee have for all intents and purposes been fulfilled by the establishment of local legal aid committees, either through government sponsored programs or through local bar association programs. The only purpose that the State Bar Committee now sees for its existence in the area of legal services is continued help through suggested changes that have been proven elsewhere and through information to and guidance of local committees upon request, with regard to the establishment, amendment and day-to-day operation of a legal aid local committee. It is not recommended that a statewide program be established at this time as it appears the problem is being well handled by local committees.

The machinery for operation of the Lawyer Referral Service, which is a service designed to inform middle income people of the availability of attorneys throughout Idaho should they desire to consult one, has been set up initially in the State Bar office. The program was established by setting up lawyer referral panels in each of the local bar associations; panel members agreeing to serve on panels in specific areas of the law; and referrals to these panels being made on a rotation basis among the members of the panel from the State Bar office.

Advertising with regard to the service has necessarily been minimal and has been accomplished through advertisements in newspapers throughout the state in the want-ad section of the papers. Eventually the main bulk of the advertising budget will be spent on advertising space in telephone books in the yellow pages under either "lawyers" or "attorneys". The yellow page advertising will be more extensive and a bit more informative than most of the advertising in the want-ad section of the newspapers but the ads will basically inform people that if they do not have a lawyer and desire to obtain the services of a lawyer for advice and consultation, they may call a given number in Boise, collect, and they will be referred to an attorney near their home. The advertisement will also inform the public that the first interview will cost \$15.00 for the first half hour. The callers will be told that fees will, after the first interview, be established between them and the lawyer to whom they have been referred.

The main purpose of the program is to make legal services available to the vast number of people within the state of Idaho who fall in this middle income group and who often fail to contact a lawyer either because they do not understand how and when to do so, or because they are of the opinion that it will cost them a considerable amount to obtain such legal advice. The program makes it possible for them to make such contact and tells them exactly what the initial contact is going to cost them. The referrals are made from the state office in the manner set forth above and it is hoped that the program will result in a broader use of the services of attorneys throughout Idaho in areas where people have neglected to use such services in the past, often to their detriment.

Attached to this report are the statistics on this program to the date of this writing.

Respectfully submitted

Lawyer Referral and Legal Aid Committee

*William A. Stellmon*

William A. Stellmon, Lewiston, Chairman

Art Smith, Idaho Falls; Garry Jones, Lewiston; Wayne Fuller, Caldwell; Tom Robertson, Idaho Falls



451 turned in Lawyer Referral sheets --90 referred

1st Dist: 7 referred out of 41

2nd Dist: 7 referred out of 52

3rd Dist: 6 referred out of 44

4th Dist: 49 referred out of 124

5th Dist 11 referred out of 85

6th Dist: 8 referred out of 45

7th Dist: 2 referred out of 60

WALLIS & CHURCHILL

RANDALL WALLIS  
WINSTON H. CHURCHILL  
THOMAS L. SMITH

ATTORNEYS AT LAW  
POST OFFICE BOX 1253  
BOISE, IDAHO 83701

210 IDAHO BUILDING  
AREA CODE 208  
TELEPHONE 342-5693

May 24, 1973

Board of Commissioners  
Idaho State Bar  
P. O. Box 835  
Boise, Idaho 83701

Gentlemen:

As Chairman of the Legislative Information Committee of the Idaho State Bar for the current year, I wish to make the following report:

Your Committee met at least weekly during the Session of the Legislature, analyzed all bills introduced, selected from such bills those that the Committee felt were of general interest to the members of the Bar, prepared a brief description of the substance thereof, and through your office made weekly mailings to the members of the Bar of such bills and their movement on the Legislative Calendar and their status from week to week. Much credit should be given to Mr. Kull and his staff for their kind assistance in helping with the duties of this Committee.

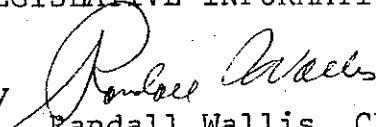
Lawyer members of the Legislature were invited to attend our meetings, and on a few occasions we had Legislative guests.

Your Committee has had no report from the members of the Bar as to whether or not the service provided served a real purpose, or whether or not the lawyers desire a continuation thereof. It might be advisable for the Commission to get the reaction of the members to know whether or not this Committee is serving a purpose for which it was intended, and whether or not the members of the Bar desire the continuation of this service.

Respectfully submitted,

LEGISLATIVE INFORMATION COMMITTEE

By

  
Randall Wallis, Chairman  
For the Committee composed of:  
Myron D. Gabbert, Jr.  
T. J. Jones III  
James E. Shiller

RW/sk

REPORT OF THE PEER REVIEW COMMITTEE  
OF THE IDAHO STATE BAR  
FOR 1972-73

The Peer Review Committee, consisting of Robert H. Copple, Chairman, and Hugh Maguire and William Anderson, created in August of 1971 pursuant to a resolution adopted by the Idaho State Bar Association at its 1971 Annual Meeting, continued its operation into its second year of existence. The organization and procedures previously adopted by the Committee were followed without substantial change. During the year there were a total of seventeen (17) complaints filed with the Committee. Of these, two (2) were from North Idaho, nine (9) were from Central Idaho, and six (6) were from Southern Idaho. In one case the Committee declined jurisdiction in view of legal proceedings pending involving the subject matter of the complaint. In another case, one law firm refused to submit to the jurisdiction of the Committee and elected to file suit to collect the amount of the fee and the Committee took no further action due to the pending legal proceedings.

It is believed that the Committee continues to serve a useful purpose for both attorneys and their dissatisfied clients. In many of the complaints, after the hearings had been held, both the attorney and the client were able to reach a satisfactory solution to their problem. It does seem unfair that the attorney can be forced by the Bar Association to reduce or make other changes in the fee which he has charged but that the client cannot be compelled, by the Committee at least, to pay whatever fee is ultimately adjudged to be

reasonable and fair. Nevertheless, the Committee is convinced that at least in the greater majority of cases the complaining clients appreciate the opportunity to appear before the Committee and have generally complied with the recommendations of the Committee, and it is believed that the legal profession improves its public relations by providing this complaint procedure.

It has been the observation of the Committee during the two years of its existence that the principal cause of fee disputes is a lack of communication between the attorney and his client. Understandably, a layman without experience or contact with the legal profession is simply appalled by an hourly charge of \$50 - \$70 per hour until an explanation of such a charge under the circumstances involved is made. In other cases we find that lawyers may be supplying more services than the client really wants even though the ultimate charge for the services is reasonable. The Committee again urges all attorneys to discuss their fees frankly and openly with their clients and whenever possible to reach a full and complete agreement before the services are rendered, and failing in this the attorney should in all cases discuss the basis of his fee with the client as soon after the services are performed as possible and be certain that the client has a full understanding of the work actually done by the lawyer. Since the number of complaints to the Committee seems to be increasing, it is believed that during the coming year formal rules of procedure should be adopted in order to assure the effective dispatch of the Committee's business in a fair and impartial manner.

Respectfully submitted

IDAHO STATE BAR  
PEER REVIEW COMMITTEE

## VOSHELL &amp; WRIGHT

JACK GAYLEN VOSHELL  
ROGER B. WRIGHT598 NORTH CAPITAL AVENUE - P. O. BOX 557  
IDAHO FALLS, IDAHO 83401TELEPHONE 523-4433  
AREA 208

May 25, 1973

Board of Commissioners  
Idaho State Bar  
P. O. Box 835  
Boise, Idaho 83701ATTENTION: Mr. Ronald L. Kull  
Executive DirectorRe: Professional Ethics Committee  
Annual Report

Gentlemen:

During the past year Mr. Jess B. Hawley, Jr., found it necessary to resign as a member of our committee. All of us can only be grateful that we had the benefit of his considerable talent and earnest concern of the problems of this committee during the many years he has served as a member and at times as chairman. For the two remaining members, the loss of Mr. Hawley's services was made acceptable only by reason of the appointment of another most capable and interested member of the Boise Bar, Mr. Louis H. Cosho.

Since our last annual report, the committee has received requests for fifteen opinions of which four were handled by reference to former opinions, informal written response was made to nine and two are yet under consideration.

The committee has considered and will concern itself further with other matters that have been brought to our attention, but of special concern to us is the question as to what extent the Code of Professional Responsibility as adopted by our Supreme Court in 1971, supplants, supercedes or perhaps revokes the earlier Canons of Professional Ethics. Apart from conflicts which may appear, our committee has operated under the assumption that the basic substance of the old Canons still obtains wherever the same principles have been incorporated into the new code. Our code, as adopted, does not include the "Ethical Considerations", which are a substantial part of the Code of Professional Responsibility as adopted by the American Bar Association in 1969, and from which our

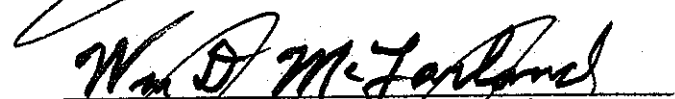
VOSHELL & WRIGHT

present code was copied. Our committee has, nevertheless, taken liberty to refer to that part of the ABA Code of Professional Responsibility in its deliberations and has made liberal use of the voluminous ABA Ethics Opinions that are based upon the old Canons of Professional Ethics. We hope that these valuable tools may continue to be available to our committee.

Respectfully submitted,

IDAHO STATE BAR ASSOCIATION  
Professional Ethics Committee

  
Jack G. Voshell, Chairman

  
Wm. D. McFarland, Member

  
Louis H. Cosho, Member

JGV:ck

LAW OFFICES

**LANGROISE, CLARK, SULLIVAN & SMYLLIE**

SUITE 300 SIMPLOT BUILDING

P. O. BOX 1466

BOISE, IDAHO 83701

WILLIAM H. LANGROISE  
WILLIS E. SULLIVAN  
ROBERT E. SMYLLIE  
EDITH MILLER KLEIN  
ANDREW M. HARRINGTON  
WILLIS E. SULLIVAN III  
JOHN C. WARD

D. WORTH CLARK (1902-1955)  
WILLIAM L. LANGROISE (1929-1961)  
TELEPHONE (208) 343-3676

May 23, 1973

Board of Commissioners of the  
Idaho State Bar Association  
P. O. Box 835  
425 First Security Building  
Boise, Idaho 83701

Re: Special Committee on Reapportionment  
of the Idaho State Bar

Gentlemen:

At a meeting of this Committee last fall there was a lengthy discussion concerning amending Rule 185 of the Rules of the Supreme Court and the Bar Commissioners. James B. Lynch was present and presented a proposed amendment to this rule which he has been working on for a considerable period of time. No final action was taken, nor could be taken at that meeting.

Subsequently, Mr. Lynch made some revisions in his proposed Rule 185 in which he had made some technical changes to eliminate some objections that were voiced at the Committee meeting. This proposed amendment of Rule 185 has been approved by the Fourth District Bar Association.

The revised proposed amendment as redrafted by Mr. Lynch was submitted to the members of the Committee for their consideration. Four of the Committee members have responded.

Three of the Committee members, including the undersigned, have approved, although with some reluctance, the amendment to Rule 185 as approved by the Fourth District Bar Association. Two of the Committee members have disapproved it.

Board of Commissioners of  
the Idaho State Bar Assn.  
May 23, 1973  
Page Two

It does not appear that it would be possible for this Committee to accomplish anything further in connection with Rule 185 without a meeting which could become a drafting session for the purpose of attempting another revision.

There was also submitted to the Committee members the proposed resolution which would change the purpose and direction of the annual meeting of the Idaho State Bar Association, which resolution has also been approved by the Fourth District Bar Association.

Two of the Committee members, including the undersigned, have approved this resolution, specifically because it merely proposes to submit it to a vote of all of the members of the Bar, although both of these Committee members disapprove of what it attempts to accomplish. Three of the Committee members disapprove of the resolution as such.

I am enclosing herein copies of the responses of the members of the Committee to these propositions.

Very truly yours,

SPECIAL COMMITTEE ON REAPPORTIONMENT  
OF THE IDAHO STATE BAR

By   
Willis E. Sullivan, Chairman

WES:mb  
Encl.  
cc: Members of the Committee  
James B. Lynch, Esq.



MERRILL & MERRILL  
COUNSELORS AND ATTORNEYS AT LAW  
SPAULDING BUILDING  
POCATELLO, IDAHO 83201

P. O. BOX 991  
TELEPHONE  
208-232-2286

A. L. MERRILL (1886-1961)  
R. D. MERRILL  
W. F. MERRILL  
S. E. GARDNER  
E. J. BERRETT

May 9th, 1973

RECEIVED

MAY 10 1973

Mr. Willis E. Sullivan  
Attorney at Law  
P.O. Box 1466  
Boise, Idaho 83701

LANGROISE, CLARK, SULLIVAN & SMYLIE

Re: Special Committee on Reapportionment  
of the Idaho State Bar

Dear Willis:

In reply to your letter to the members of the above-captioned committee dated April 27, I would make the following comments:

1. The proposed amendment to Rule 185 would automatically do away with the annual meeting now held. I am opposed to this approach and I feel that the annual meeting is an essential part of an active Bar Association.
2. The proposal relative to sub-paragraph (a) requires, among other things, that all matters relating to or affecting the government of the Idaho State Bar must be determined by secret ballot of all of the members. To me this is impossible to interpret and is most impractical. Interpretation of what amounts to the government of the Idaho State Bar can go so far as to involve the day to day decisions of the Executive Director or the commissioners concerning the date of the CLE meetings, the contents of the CLE meetings, the discipline cases, grading sessions, whether the President should attend the American Bar Association meeting, etc. and etc. The old Rule 185 did not go to this extent to curtail and circumscribe the "government of the State Bar" but only dealt with the general policy and statutes and rules of the court. I feel that this amendment would result in making it impossible for the commissioners and the President of the State Bar to function.
3. Paragraph (a), which requires a direct secret ballot on all possible items, is, in my opinion, in direct conflict with paragraphs (f) and (g) which apparently provide for a dual type delegate system with the delegates to cast their votes without any requirements that the local Bar Associations instruct their delegates by secret ballot.
4. I fail to see any special reason to have a delegate meeting of three delegates per bar association in October and a separate delegate meeting of one delegate per bar association in December. Obviously the October meeting is merely taking the place of the annual meeting and in effect having two meetings, October and December, grow in the place of one

RECEIVED

MAY 24 1973

IDAHO STATE BAR

Mr. Willis E. Sullivan  
May 9th, 1973  
Page - 2

5. Sub-paragraph (h) again seems to me to be contrary to sub-paragraph (a), and of no purpose whatever if sub-paragraphs (f) and (g) are used. The real purpose I can see for sub-paragraph (h) is a method to get back to the secret ballot by each individual member and sidetrack the procedures set out in sub-paragraphs (f) and (g).
6. I cannot understand paragraph (i) in any regard. This again seems to sidetrack the provisions of sub-paragraphs (f) and (g), and likewise involves the entire bar by secret ballot in the "all matters relating to or affecting\*\*\*the government of the Idaho State Bar\*\*\*".
7. To me sub-paragraph (j) is so cumbersome that it is impossible to be used in an "emergency". This paragraph combined with the requirements in sub-paragraph (a) that there be a secret ballot on all matters affecting the "government of the State Bar" would in effect result in an absolute impotence of the commissioners and the President of the Idaho State Bar Association.

I have at hand the letter of Hal Ryan and I concur in his thoughts regarding the amendment to Rule 185 and specifically concur in what he says relative to the proposed Resolution concerning the annual meeting.

I realize that I was not present at the last meeting of this committee and perhaps this is one reason why I had such a difficulty in understanding what this resolution concerning amendment to Rule 185 is all about. I do however feel strongly that it should not be approved in its present form and should again be seriously considered at a meeting of this committee.

Sincerely yours,

MERRILL & MERRILL

*W. F. Merrill*

By *W. F. Merrill*  
W. F. Merrill

WFM/r

cc: Mr. Ronald Kull, Executive Director  
Idaho State Bar Association  
P.O. Box 895  
Boise, Idaho 83701

Mr. Willis E. Sullivan  
May 9th, 1973  
Page - 3

Mr. Charles Creason, Attorney at Law  
P. O. Box 335  
Rupert, Idaho 83350

Mr. Blaine Evans, Attorney at Law  
P.O.Box 1559  
Boise, Idaho 83701

Mr. William Holden, Attorney at Law  
P.O.Box 129  
Idaho Falls, Idaho 83401

Mr. Jerry Smith, Attorney at Law  
302 Weisgerber Building  
Lewiston, Idaho 83501

Mr. Marcus Ware, Attorney at Law  
P.O.Box 835  
Lewiston, Idaho 83501

Mr. Harold L. Ryan, Attorney at Law  
P.O.Box 587  
Weiser, Idaho 83672

RECEIVED

RECEIVED

MAY 10 1973

WARE, STELLMON & O'CONNELL  
LAWYERS  
LEWISTON PROFESSIONAL BUILDING  
1219 IDAHO STREET  
LEWISTON, IDAHO 83501

LANGROISE, CLARK, SULLIVAN & SMYLLIE

MARCUS J. WARE  
ELBERT A. STELLMON  
DANIEL W. O'CONNELL  
WILLIAM A. STELLMON

AREA CODE 208  
TELEPHONE 743-1516  
P. O. DRAWER 635  
CABLE ADDRESS: WASCO

May 8, 1973

W. E. Sullivan, Esquire  
Langroise, Clark, Sullivan & Smyllie  
Attorneys at Law  
P. O. Box 1466  
Boise, Idaho 83701

Dear Willis:

I have carefully examined the two resolutions enclosed with your letter of April 27, 1973.

My natural reaction to the proposal to change Rule 185 to a delegate system is that it will greatly weaken the already greatly weakened annual meeting and will ultimately lead to the next step which would be to abolish the annual meeting and depend entirely on the delegate system. However, I demur to the experience and judgment of James Lynch and others who see the flaws in our present system. Therefore, I approve of this resolution to amend Rule 185 for submission to the bar with the greatest reluctance.

Now, with respect to the second resolution, I agree that it may be submitted for consideration, but I do not necessarily approve of it. The annual meeting is the one meeting of attorneys of the state in which a sense of unity of the bar as a whole is evident. I do not like to see this concept weakened. If the annual meeting is to be built around a continuing legal education program, the program so given at the annual meeting should not be duplicated elsewhere. Otherwise, the annual meeting might just as well be dissolved, as members would await a local, sectional meeting that might be more convenient.

Further, under existing practice the program at the annual meeting meets the very requirement of not being given elsewhere. Therefore, I feel this last

W. E. Sullivan, Esquire

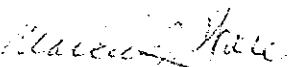
Page 2

May 8, 1973

resolution is inadvisable and will destroy any sense of unity of the bar, if that has any value.

While I do not play golf, whenever I attend a bar meeting at Sun Valley, I have always enjoyed it. It must be remembered that all work and no play will make lawyers as well as Jack very dull boys.

Sincerely,



Marcus J. Ware

MJW:hmh

Ryan & Sweet

FRANK D. RYAN - 1956  
HAROLD L. RYAN  
NICK G. SPEROPULOS - 1967  
MICHAEL B. SWEET

ATTORNEYS AND COUNSELORS AT LAW  
P. O. BOX 587  
WEISER, IDAHO 83672

TELEPHONE  
549-2651  
AREA CODE 208

May 7, 1973

RECEIVED

MAY 9 1973

LANGROISE, CLARK, SULLIVAN & SMYLLIE

Mr. Willis E. Sullivan  
Attorney at Law  
P.O. Box 1466  
Boise, Idaho 83701

Re: Special Committee on Reapportionment  
of the Idaho State Bar

Dear Willis:

In reply to your letter to the members of the above captioned committee dated April 27th.

As to the proposed resolution on setting up what appears to be a double-delegate system proposition, or where all else fails, direct secret ballot to all members of the bar, I either fail to get the point and don't understand it; or, if I do understand it, I fail to get the point.

Perhaps I am not one of those who generally espouses change for the sake of change. Basically, this rule in a couple of places requires the implementation of any policy affecting statutes, rules or policy of the Idaho Bar to be determined by direct secret ballot, or through a vote of the local bar association. The rule then sets up a delegate system which apparently requires three delegates from each bar association in October, and then for some strange reason, a singular delegate system from each bar for a proposed meeting in December. I frankly think the whole thing is very ambiguous. It would seem to me that if it is a good idea to adopt a delegate system for governing of the Idaho State Bar, then we should do so. If this is a good idea, I'm certain it could be done in a much simpler form than the resolution that is proposed. I am not at all certain that a delegate system that may work in a state where there are thousands of members of the state bar, or as in the case of the ABA, would be the same answer and operate with any degree of efficiency in a small bar such as exists in the State of Idaho.

As to the second resolution which you enclosed, it would

Mr. Willis E. Sullivan  
May 7, 1973  
Page. -2-

seem to me that this resolution advocates, and would give direction to the commissioners to send out for vote to all of the members of the bar, a question of whether or not it is a good idea to require the commissioners to hold an annual CLE in lieu of an annual meeting. As I read the question to be submitted, and should it pass, it would require the commissioners to henceforth hold a CLE meeting each year which would eliminate any nefarious social gatherings and business meetings of the bar. The question just simply states that the commissioners shall hold annually a CLE oriented meeting in lieu of the traditional type of annual meeting devoted to extensive social as well as educational and business interests. I would interpret that if I voted "yes" on such a question, I would, therefore, be voting for the commissioners to hold an educational meeting and to eliminate social and business activities. It seems to me that presently the commissioners are holding several CLE's a year during the fall and spring devoted entirely to CLE. I would assume that Mr. Lynch does not approve of this policy and thinks that it just should be done one time each year during the summer, some place. I may not be correctly getting the gist of this second resolution; however, I have always had a great deal of difficulty trying to understand what Jim Lynch's resolutions say. It seems that when I listen to him he is expressing one thought, and when I read the resolution it says something else. His grounds for this resolution seem to be that a small percentage of attorneys attend the annual meeting. I have attended many CLE bar-sponsored programs which have been attended by a very small percentage of the Idaho Bar. Just because it's a CLE, I do not believe, per se, that will get the crowd.

Yours very truly,

RYAN & SWEET



Harold L. Ryan

HLR/pb  
Enc.

cc: Mr. Ronald Kull  
Executive Director  
Idaho State Bar Association  
Box 895  
Boise, Idaho 83701

Mr. Charles Creason  
P.O. Box 335  
Rupert, Idaho 83350

Mr. Willis E. Sullivan  
May 7, 1973  
Page -3-

cc: (cont'd)

Mr. Blaine Evans  
P.O. Box 1559  
Boise, Idaho 83701

Mr. William Holden  
P.O. Box 129  
Idaho Falls, Idaho 83401

Mr. Wes Merrill  
P.O. Box 991  
Pocatello, Idaho 83201

Mr. Jerry Smith  
302 Weisgerber Building  
Lewiston, Idaho 83501

Mr. Marcus Ware  
P.O. Box 835  
Lewiston, Idaho 83501



CREASON & CREASON

ATTORNEYS AT LAW  
RUPERT, IDAHO 83350

H. V. CREASON  
C. H. CREASON

May 3, 1973

BOX 335  
436-4131

RECEIVED

MAY 7 1973

Langroise, Clark and Sullivan  
Attorneys at Law  
P. O. Box 1466  
Boise, Idaho 83701

LANGROISE, CLARK, SULLIVAN & SMYLYE

Re: Special Committee on Reapportionment  
of the Idaho State Bar

Dear Willis:

I have gone over the opposed amendment for Rule 135 and this meets with my approval and satisfaction. As far as the other resolution is concerned, I do not agree with it; however, as long as the Bar is going to vote on it I have no objections.

Best personal regards,

CREASON & CREASON

Charles H. Creason

CHC:jj

ELAM, BURKE, JEPPESEN, EVANS AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

SUITE 1010 BANK OF IDAHO BUILDING

POST OFFICE BOX 1559

BOISE, IDAHO 83701

CABLE-EBJEB

BOISE TELEPHONE

208-343-5454

SUN VALLEY OFFICE

SUITE 664-665 ASPEN-WILLOW

P. O. BOX 47

SUN VALLEY, IDAHO 83353

TELEPHONE 208-622-5329

LAUREL E. ELAM  
CARL A. BURKE (1898-1961)  
CARL P. BURKE  
KARL JEPPESEN  
BLAINE F. EVANS  
PETER J. BOYD  
ROBERT J. KOONTZ  
J. DENNIS FAUCHER  
M. ALLYN DINGEL, JR.  
JOHN S. SIMKO  
JACK S. GJORDING  
LARRY D. RIPLEY  
DAVID B. LINCOLN  
JOHN MAGEL  
PHILLIP M. BARBER

June 13, 1973

Mr. John Sharp  
President  
Idaho State Bar Association  
First Security Bank Building  
Boise, Idaho, 83702

RE: Report by Chairman of Restitution and  
Casualty Insurance Committee

The Committee held its initial meeting on November 16, 1972, in Boise, Idaho. The Committee discussed various No-Fault proposals, including the Uniform Motor Vehicle Accident Reparation Act. It was the concensus of opinion that the Committee recommend to the mid-winter meeting of the Bar presidents that the Bar Association support a mandatory first party coverage act. Rob Paine assisted the Committee in drafting the Bar Association proposal. The Bar Commission authorized the Chairman to seek introduction of the Bar Association proposal in the 42nd Idaho Legislature.

Four separate No-Fault proposals were introduced through the Senate Commerce and Banking Committee chaired by Senator Vern Brassey. The Bar Association proposal and Senate Bill 1068 which was introduced by the Idaho Trial Lawyers Association were not reported out of the Committee. Pursuant to instructions from the Bar Commissioners to the Committee, your Committee opposed Senate Bill 1029 and Senate Bill 1040. Your Chairman testified twice before Senator Brassey's committee and attended all debates on both bills. Your Committee received valuable assistance from Rob Paine, Ron Kull and members of the Idaho Trial Lawyers Association. Both bills were defeated by slightly less than a 3 to 1 margin. Senate Bill 1029 was the product of the Uniform Law Commissioners and was carried on the Floor by Senator Edith Miller Kline. Senate Bill 1040 was introduced by the Department of Insurance on behalf of the independent insurance agents and was carried on the Floor by Senator Warren Brown.

Mr. John Sharp  
June 13, 1973

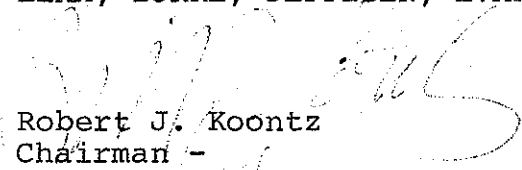
Report by Chairman of Restitution and Casualty Insurance Committee  
(Continued)

In the opinion of your Committee the upcoming legislative session will have before it more No-Fault proposals. We strongly recommend that the Bar Association continue to support a mandatory first party coverage act and that a bill similar to Senate Bill 1068 be submitted to the next Idaho Legislature for passage.

Your Committee took no action on any other legislation pending before the 42nd Legislature.

Very truly yours,

ELAM, BURKE, JEPPESEN, EVANS & BOYD

  
Robert J. Koontz  
Chairman -  
Restitution and Casualty Insurance  
Committee

RJK:js

## PUBLIC RELATIONS COMMITTEE REPORT

To All Members Of The Idaho State Bar Association:

I have greatly enjoyed the privilege of serving as Chairman of the Public Relations Committee for our State Bar this past year. I am sure you will agree that the public relation function of our Bar Association is becoming increasingly important and vital to the establishment of an influential and effective organization representing the legal profession. In order to maintain such an organization, an attitude of respect and honor for the law, its high ideals and standards and the traditional essential role it plays in the existence of civilized society, must be generated in the minds of the public. This fulfills, of course, not only a selfish desire of pride for each of us as practicing attorneys, but also fulfills a time honored objective of the Bar Association to assure that proper laws are enacted preserving the rights and remedies of, and benefits for, individuals as well as organizations.

The thrust of the Public Relations Committee this year has been the development of a "Law For Laymen" program. This program has been finalized and is being implemented throughout our state. It consists of giving presentations, without charge, to lay audiences throughout the state. These have usually been held on a weekday evening once a week for ten consecutive weeks, and the programs usually last for two hours. Our State Bar Committee members have developed comprehensive outlines on ten topics of general interest being the Legal Process, Debtors' and Creditors' Rights, Estate Planning, Contracts, Environmental Law, Family Law, Community Property, Real Estate, Criminal Law, and Negligence. These outlines have been reproduced by the Bar office in sufficient numbers to provide a copy to each individual attending such lecture.

The Law For Laymen program has been extremely effective. In Kootenai County last spring, the ten week program was presented. The community college donated the conference space and each meeting was attended by over two hundred persons. The favorable response to the program by the public was overwhelming and created much good will for the local Bar Association in Kootenai County and, I am sure, the legal profession as a whole. The program was such a success that it will be run for a second time this fall in Kootenai County.

I urge each one of you to take the message of the success of the Law For Laymen program, the good will created by the program for individual lawyers as well as the local and State Bar Association, and the ready availability of the program from the State Bar office, to your respective communities and to contact the proper persons to get the program implemented in your own areas.

Public Relations Committee Report  
Page Two

Although the Law For Laymen program will be continued in the indefinite future, the Committee on Public Relations will direct its effort into two other areas. The first area will be the development of pamphlets on various subjects of general interest to the public for distribution to each attorney to place on his waiting room desk as items of general information to his clients. These pamphlets are printed on the front and back of a 8 1/2 by 11 inch heavy duty paper folded in thirds. I am sure you have probably seen these in offices of attorneys in other states. Some of the contemplated subjects to be covered in these pamphlets are: Before You Say . . . "I Do", Wills In Idaho, If You Are In An Accident, Are You Buying A Home Or A Headache, Read Before You Sign, So You Are Going To Be A Witness, Does Your Estate Need To Be Planned, and other similar topics.

The second area of concentration will be the development of a program for the high schools concerning a series of educational presentations concerning the legal profession. The Texas State Bar has implemented such a program, and I have written them for information for the Committee's use as a guide to implementation of a similar program in Idaho. On behalf of the Committee, I will warmly welcome your support for all these programs and any suggestions you may have for others.

W. Baxter Brown  
Chairman, Public Relations Committee

LAW OFFICE

ROBERT M. TERRELL  
1883 - 1971

**TERRELL, GREEN, SERVICE & GASSER**

CENTER PLAZA — P. O. BOX 4883  
POCATELLO, IDAHO 83201

JAMES B. GREEN  
ARCHIE W. SERVICE  
CLARK GASSER

TELEPHONE  
Area Code 208  
232-4471

April 26, 1973

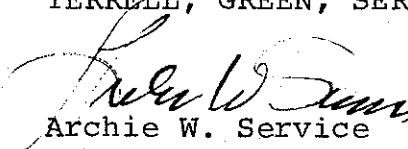
Mr. Ronald L. Kull  
Executive Director  
Idaho State Bar  
P. O. Box 835  
Boise, Idaho, 83701

Dear Mr. Kull:

Other than the activity of the Idaho State Taxation Committee participating on behalf of the Bar in the planning and implication of the Idaho State Tax Institute, there has been no major activity of the Bar Taxation Committee.

Very truly yours,

TERRELL, GREEN, SERVICE & GASSER

  
Archie W. Service

AWS:pb

JAMES W. GIVENS  
LAWYER  
1026 F STREET - P. O. BOX 875  
LEWISTON, IDAHO 83501  
TELEPHONE 208/746-2374

June 8, 1973

Mr. Ronald L. Kull  
Executive Director  
Idaho State Bar  
Post Office Box 835  
Boise, Idaho 83701

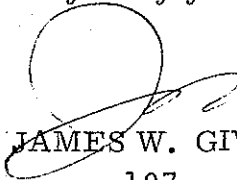
Dear Ron:

During the past year the following matters have been presented to the Committee of the Unauthorized Practice of Law for disposition, and been disposed of as follows:

1. "Legal Counseling" an ad appearing in a weekly newspaper in Mountain Home. This was assigned to Frank E. Chalfant, Jr., Boise, member of our committee, to check into the matter. Mr. Chalfant went to Mountain Home November 28th and it appears to be our recommendation to the State Bar Association at this time, that no further action be taken in this matter.
2. One of our local patent attorneys, John Kraft, complained of a newspaper article referring to the Raymond Lee Organization. Mr. Kraft pointed out that the Raymond Lee Organization is not admitted to practice patent law. This matter was finally resolved through the Commissioner of Patents Office, Washington, D.C.
3. Practice of law by collection agencies was referred to our Committee by Charles W. Fawcett, Staff Attorney of the Lewis-Clark Legal Services in Lewiston. Our Committee has nothing further to report on this matter.
4. Complaint if Herman J. McDevitt with reference to Farmers Insurance Group, Pocatello Branch, wherein Farmers was attempting to represent Mr. McDevitt's client. This has been assigned to our Committee but as yet no report.

Should you need anything further, please advise.

Very truly yours,



JAMES W. GIVENS

## REPORT OF THE COLLEGE OF LAW

Albert R. Menard, Jr.  
Dean

Last year the compendium for the 1972 annual meeting contained a report from the Dean of the College of Law on the status of the institution. The College received a number of comments concerning the content of the report, all of which were most constructive. The Commissioners have again extended an invitation to use this method of communication with the lawyers of the state, and I am delighted to do so.

An authority on legal education, to the best of my recollection the great Roscoe Pound who was for years Dean of the Harvard Law School and who contributed so much to the American Bar Association, once said that a law school, whether Harvard or a small poorly financed institution, consisted of the same five components. He listed the following: Students, faculty, curriculum and program, law library, and a "home" or building in which to put them. A good many years of law teaching and of law school administration have convinced me that his simple statement was quite correct. Let me take up each of these items in turn.

### The Students

During the past year there were 253 students enrolled in the College of Law. With selective admissions made mandatory by far more applicants than places the quality of the student body in terms of basic intellectual capacity is at an all time high. There are very few who display a lack of aptitude for law or a sheer lack of ability. Obviously, a great many things are necessary in the makeup of an ethical and professionally competent lawyer other than his native ability. Many of these are intangible and measurement is not possible. However, I have the temerity to venture that an ever increasing percentage of the graduating classes possess these qualities which are difficult to discern at this stage of their development.

A few things can be said. Law students continue to work hard in the tradition of students of the profession. They continue to attend classes with considerably higher regularity than those in most other study programs. The vast majority are interested in what they are doing and in a future in the profession. There are no doubt a handful of "time-servers" here because they don't know what else to do, but their number is limited. Many students have had substantial experience in responsible capacities as businessmen, as officers in the armed forces, and in other forms of activity, such as a mission for their church. In some respects they resemble the groups that came through law schools



immediately after World War II. They are older, with an average age in the entering class 25. They possess bachelors degrees from 61 different colleges, although over 80 per cent are now legal residents of Idaho. A substantial number hold masters degrees and there is an occasional Ph.D. among them. They do face problems. Admittedly skill in clear expository writing does not seem to be as well developed by our educational system prior to law school as it once was, and we are taking some steps to alleviate this as will be pointed out later. Academic attrition does take a toll in spite of rumors to the contrary.

One overpowering problem in connection with most of the students lies in the field of support and finance. Many are married and many have children. Expenses continue to increase as inflation has its impact. Parents and family members are often unable to extend financial assistance. A substantial number are therefore borrowing to finance their legal education and, while I admire their courage, I feel that it is unfortunate that they must graduate from law school carrying a rather heavy debt load. A few withdraw rather than incur the debts necessary, and this troubles us.

One of the happier developments in the student body is a renewed belief in working from within the system. Fortunately, the College of Law at Idaho had no violent difficulties with aggressive activists even during the tremors that swept many other law schools during 1968, 1969 and 1970. However, unrest was present. There does seem now to be a renewed presence of a balanced interest in many students between the role of the lawyer in the improvement of society and the environment on the one hand and attaining a high degree of professional competence to serve the client, whatever his problem may be, on the other.

A final word about minorities in law schools and about the women among the students is in order. These two matters to some degree go hand-in-hand in that they both involve groups which have not traditionally chosen law as a career. We had anticipated a vast increase in the number of women applying to law school in connection with the current "women's rights" movement. While there has been some slight increase, the small proportion it has involved has somewhat surprised us. Of course, Idaho as a state institution has always treated the application of a woman for admission on exactly the same basis as a man on the assumption that this was both the only just course and the course that the 14th Amendment, as well as the state constitution, required. Despite this long history of equal treatment there were only 15 women in the College of Law last year or about six to seven percent, and it does not appear that the percentage will increase dramatically in the entering class for next year.

Other minority groups present a somewhat different pattern. There are relatively few Blacks, Chicanos, Native American Indians, or Orientals of recent foreign origin in Idaho. We make every effort to attract these

in accordance with the belief that representation of the minorities in the ranks of the profession would be most helpful to a particular group of our citizens and would encourage them to greater ambition. These efforts can hardly be described as highly successful. Blacks, Chicanos and perhaps one or two Native Americans have graduated from the Law School in the past, one last year and another this year. Nonetheless, the total number is somewhat discouraging.

Admission remains a substantial problem. We receive approximately 1,200 applications per year. The capacity in the new building is slightly less than 300. Obviously then, since the curriculum still follows a three-year pattern, there is room for perhaps 105 to 110 students per year. The task of selecting the successful entrant from the large number of applicants becomes quite difficult. After taking into account the priority which we give Idaho residents toward the filling of approximately 80 per cent of our capacity, it is extremely difficult indeed for a non-resident of Idaho to be admitted. Perhaps only 1 in 20 non-residents who apply will be successful. Applicants who are residents of Idaho, on the other hand, perhaps have an approximately even chance of admission. Occasionally the successful percentage from Idaho dips below 40 per cent but normally about half will be extended invitations to attend. The 50 per cent who must be rejected obviously is most troublesome to many of you who have sons or daughters, more distant relatives, or sons of neighbors or clients, who may fall into this category. We welcome your letters and we give them some weight where the letter displays a real knowledge of the applicant. In a broad sense, however, the applicant's test score and his college grade point average largely determine his fate. I expect this condition will continue for a number of years, although the vast volume of applicants may decrease somewhat. Certainly, the day will probably not return where a student can go to law school simply by graduating from college and paying the bursar with a check that doesn't bounce.

#### The Faculty

The faculty of the College of Law continues a gradual increase in numbers, and we have succeeded in attracting several experienced practitioners. Unfortunately, the growth in faculty size has lagged behind the relative rate of growth in the student body, thus our faculty-student ratio continues to slip. At the present we have only about 1 faculty member for each 26 students. A ratio of 1 to 20 is normally considered the standard approach in accredited American law schools.

Despite low salaries, indeed the lowest in any one of the 54 state supported law schools, we have been able to hold members of the law faculty reasonably well due to the relative pleasure one finds in living in a small community in North Idaho. However, during the current year one faculty member, Professor B. J. Brabham, did leave us to accept a position at the University of Richmond at approximately a \$6,000 increase in salary. Further departures are in prospect if salary levels in the College of Law are not raised to competitive standards when compared to other states.

As new positions are allocated to us, every effort is made to secure the best man or woman available for the position and we have been relatively successful in our recruiting efforts. During 1973-74 we will be joined by two newcomers, Associate Professor Sheldon Vincenti and Associate Professor Art Smith. Professor Vincenti graduated from Harvard University College of Law and, after service in the United States Army, practiced for five years in Utah, serving as both a prosecutor and judge. His most recent affiliation has been to serve as a senior staff member for Representative McKay in the Congress. Professor Smith graduated from George Washington School of Law and has been employed for five years in the Public Lands and Environmental Division of the Department of Justice, primarily as a trial lawyer. He is extremely well versed, both in real property law generally and in the problems created by new statutes controlling environmental use and misuse.

### The Curriculum and Program

While the names of particular courses may change a little with the times and material be reallocated from one course to another, an example being variations brought on by the Uniform Commercial Code, the core of the course of study remains very much as it has been for the last 25 to 35 years. Consolidations have been made to permit the introduction of courses in the newer fields, but the socratic or "case" method is still predominant in the first and second year. The third year has seen more substantial innovations. Courses presented by problem and project techniques are common. Seminars have been introduced, although we need far more of them. Much third-year time is devoted to clinical training and legal internships.

A more extensive explanation of our clinical training program may be helpful. All students brief and argue at least one appellate case, and many participate in several. The Idaho Supreme Court hears the final argument in the intra-school competition. One or two teams are entered in the regional competition of the national appellate court contest. Nearly all students elect to take the course in Trial Practice in which emphasis is placed on the drafting of pleadings and motions, the taking of depositions, and the trial of cases to a jury drawn from high school seniors enrolled in government courses. With the co-operation of the Lewis and Clark Legal Services Program in Idaho and the Whitman County Bar Association in Washington, a substantial number of third-year students handle matters for indigent clients under attorney supervision. A comparable program operates in the Idaho penal institutions through LEAA funding. In all probability a higher percentage of Idaho law students receive clinical training through one or more of these approaches than do the students in any other law school.

One other program of a clinical nature deserves special mention. The internship program available to our students after the completion of their fourth semester and operating in both Idaho and Washington by Supreme Court rules is proving of tremendous value. It is particularly helpful when the student can be placed with an attorney for the summer between his second and third year. We are most grateful to those Idaho lawyers who have employed these students in the past and hope there will be many more of them in the future.

#### The Law Library

A year ago I reported to you on the retirement of Mrs. Carolyn Folz, Librarian for a good many years. Her place was taken by Mr. Walter McLeod of Montana, a graduate both in law and in library science. The library staff has been expanded, looking forward to operations in the new building, and its collection is steadily improving. Now that there is a place in which to put them, gifts of books are very much desired, as are cash endowment funds for more general library book purchases or, perhaps, special collection purchases. The Law Library is already the most outstanding library between Seattle and Salt Lake City in our opinion, and we aspire to improve it still further now that the books can be added without complete catastrophe.

#### The New Building

In a very few weeks the College of Law will move into the new building constructed for its exclusive use. The last session of the Idaho Legislature appropriated funds for furniture to properly equip the structure then under construction, and with these funds our physical plant problems are largely solved for a few years.

We expect to occupy the new structure just as soon as furniture is in place, hopefully sometime between August 20th and about October 1st.

With this move many, many problems which have beset the College of Law will be solved. Students can study under favorable conditions once more, with a study place in the building for each one of them. Improved light and ventilation will improve performance. Once more there will be office space for faculty, an item which has been nonexistent for the past two or three years. The library book collection can resume a proper rate of growth. The quality of the new accommodations is equal to that of any American law school. I anticipate rising morale and better student performance as a result. The College of Law is indeed grateful to the Idaho State Bar Association for the support which it has given us in the long struggle for creditable housing for the College of Law's activities. We hope that you will come to Moscow at the first opportunity to examine these new facilities.

### Summary

In general the Law School has continued progress through the period marked by the last year. Selective admission as a continuing process produces ever more qualified students. The faculty has been expanded slightly and the Library staff strengthened. Above all, a new building is in the final stages of completion which will allow the educational activities of the Law School to proceed under favorable conditions for the first time in a good many years. Problems do continue. We are deficient in the amount of scholarship aid which we are able to provide to our students. Our faculty is somewhat too small to properly carry out our teaching mission. Some further additions to the Library staff and to the Library book collection are definitely indicated. The work of the Dean's Office needs to be expedited by the addition of personnel. Above all, faculty salaries need to be increased. Despite these individual problems, all of which must be met and solved in the not-too-distant future, we are presenting quality legal education to qualified Idaho young people. On the whole the College of Law continues to move toward our ultimate goal, to provide a legal education at the University of Idaho of such quality that no Idaho resident feels that he must leave the state in order to satisfy his desires for an excellent legal education.

Sincerely,

Albert R. Menard, Jr.  
Dean

IDAHO STATE BAR

REVENUE

JULY 1, 1972 - JULY 1, 1973

License Fees	\$ 72,042.56
Out of State License Fees	1,205.00
House Counsel License Fees	650.00
Bar Exam Application	8,175.00
House Counsel Application	-0-
Investigation Fees	400.00
CLE Fees	19,902.10
Annual Meeting Registration	1,143.00
Advocate Revenue	1,292.25
Desk Book Revenue	1,429.60
Sales - Books and Pamphlets	3,715.40
Addressing and Mailing	772.41
Interest	2,627.72
Discipline Fines & Cost Reimbursement	1,226.58
Xerox	331.60
Miscellaneous	5,423.75
Total Revenue	<u>\$119,976.97</u>

Revenue	\$119,976.97
Less: Expenditures	<u>118,891.31</u>
	<u>\$ 1,085.66</u>

IDAHO STATE BAR

EXPENDITURES

GENERAL & ADMINISTRATIVE:

Salaries	\$ 30,721.99
Payroll Taxes, Ins. & Retirement	6,019.66
Bonds & General Liability Insurance	941.40
Rent	4,249.80
Supplies	2,221.22
Printing & Collating	1,109.25
Postage, Bulk Mail, Box Rent	3,862.00
Telephone	3,090.87
Equipment Rental	3,740.54
Repairs & Maintenance	134.13
Clipping Service	152.04
Subscriptions	8.00
Audit Fees	687.00
Other	10,909.64*
Executive Director's Expense	1,527.84
Delivery Charges	<u>115.50</u>
Total General & Administrative	\$ 64,490.88

OTHER OPERATING EXPENDITURES:

Committees	\$ 1,377.31
Commissioners Meetings	4,286.33
American Bar Association	1,724.41
Western States Bar Conference	1,094.87
Jackrabbit States Bar Conference	-0-
Miscellaneous Travel	937.21
Discipline Expense	<u>2,364.65</u>

Total Other Operating Expenditures \$ 11,784.78

Desk Book Costs \$ 1,979.11

Advocate Costs \$ 2,775.90

\*\$10,000.00 Out of Client's Security Fund

BAR EXAMS & ADMISSIONS:

Travel and Grading Costs	\$ 4,298.64
Investigation	-0-
Supplies	263.70
Admissions Receptions	92.90
Monitor	90.00
	<hr/>
Total Bar Exam Costs	\$ 4,745.24

CLE ACTIVITIES:

Travel - Speakers	\$ 9,853.37
Travel - Others	1,450.81
Supplies	681.83
Printing & Collating	2,769.22
Housing Coffee Break & Entertainment	263.24
Publicity	337.76
Miscellaneous	991.96
	<hr/>
Total CLE Activities	\$ 16,348.19

ANNUAL MEETING:

Travel - Speakers	\$ 3,239.24
Travel - Others	2,705.54
Supplies	34.05
Printing & Collating	585.24
Entertainment	131.65
Delivery Costs	19.30
Awards & Testimonials	74.94
Ladies Functions	26.01
Miscellaneous	-0-
	<hr/>
Total Annual Meeting Costs	\$ 6,815.97

NON-OPERATING EXPENSE:

Furniture and Equipment Purchase	\$ 1,259.25
Contributions	-0-
Transfers to Client Security Fund	-0-
Payments to District Bar Associations	8,692.00
	<hr/>
Total Non-Operating Expense	\$ 9,951.25

TOTAL EXPENDITURES	<u>\$118,891.31</u>
--------------------	---------------------



RESOLUTION #1

RESOLUTION

ADOPTED BY THE CLEARWATER BAR ASSOCIATION

March 15, 1973

WHEREAS: There is a continuing need for Legal Services program assistance for the poor of Asotin County, Washington.

WHEREAS: There is a federally funded Legal Services Program, Lewis-Clark Legal Services, Inc., presently located at 310 Main Street, Lewiston, Idaho (P.O. Box 973), to serve the needs of the poor for legal assistance in five northern counties of Idaho, to-wit: Lewis, Nez Perce, Clearwater, Idaho and Latah, and Asotin County in Washington.

WHEREAS: The Legal Services office at 1425 Elm Street, Clarkston, County of Asotin, State of Washington, is both inadequate for the purposes of a law office and is soon to be unavailable to the Legal Services program due to the closure of Community Action Programs nationwide.

WHEREAS: Lewis-Clark Legal Services will be unable to continue rendering legal assistance to Asotin County residents due to such closure of the Community Action Agency in Clarkston because of unavailability of donated office space, and further, because of insufficient program budget with which to find an Asotin County office without donated office space and donated secretarial help presently provided by Community Action Agency, 1425 Elm Street, Clarkston, Washington.

WHEREAS: This association continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

WHEREAS: The Lewis-Clark Legal Services program of Lewiston Idaho needs authority to allow an attorney member of its staff to office in Lewiston, Idaho for the purpose of rendering legal assistance to the poor of Asotin County, State of Washington.

NOW, THEREFORE, IT IS RESOLVED:

THAT the Idaho State Bar Association should enact the following amendment to the State of Idaho Rules of the Supreme Court and the Board of Commissioners of the Idaho State Bar governing admission to practice law, and then submit said amendment to the Supreme Court for approval:

NEW RULE - 117 (a):

Non-resident attorneys shall not be permitted to establish any office(s) and/or maintain office hours at said office(s) or elsewhere within the State of Idaho for the purpose of rendering legal assistance in Idaho to either Idaho residents or non-residents, excepting that, notwithstanding any provision of this or any other rule to the contrary, a non-resident attorney may establish an office in Idaho and maintain regular office hours in said office for the purpose of rendering legal assistance to non-residents, provided:

- (1) He does not render legal assistance to Idaho residents except with respect to matters of either contemplated or pending litigation in which such attorney is admitted;
- (2) He has at a previous point in time been duly admitted to practice law in this state as required by these rules (See Rule 105(a); and
- (3) He is employed by a legal aid office, a public agency engaged in indigent representation, or a legal aid clinic which limits their practice to the assistance of indigents and, further,

that such employer is operated, sponsored or approved by the duly constituted District Bar Association of the geographical area in which the Association exists.

Presented on behalf of the Clearwater Bar Association by  
Robert P. Brown, President.

RESOLUTION #2

RESOLUTION

By The Third District Bar Association

WHEREAS, enactment of Article IV, Section 20, of the Idaho State Constitution requires the drafting of legislation to preserve an integrated Bar Association in the State of Idaho as one of the twenty departments of government, or in the alternative the drafting of a Supreme Court Order establishing an integrated bar, and

WHEREAS, it is in the best interest of the Idaho State Bar to reapportion itself to provide for an equitable representation from each Judicial District according to the ratio of practicing attorneys in the respective Judicial Districts,

NOW, THEREFORE, BE IT RESOLVED, that any committee or agent appointed by the Idaho State Bar to draft proposed legislation or proposed Court Rules providing for an integrated Bar Association be directed to provide that there shall be nine Commissioners instead of three, one from the First Judicial District, one from the Second Judicial District, one from the Third Judicial District, three from the Fourth Judicial District, one from the Fifth Judicial District, one from the Sixth Judicial District and one from the Seventh Judicial District, to be elected by the members of the respective District Bar Associations for a term of three years, said elections being held on a staggered basis so that each year there shall be three Commissioners senior in tenure that shall constitute an executive committee of the Board of Commissioners, one member of which will be elected President either by the other Commissioners or by the general membership of the Bar.

Dated this 9th day of May, 1973.

/s/ Ken White - Pro Tem  
James S. Underwood, Secretary of Third  
District Bar Association

RESOLUTION #3

RESOLUTION

BY THE FOURTH DISTRICT BAR

BE IT RESOLVED: That Rule 185 of the Rules of the Supreme Court and the Board of Commissioners of the Idaho State Bar be amended to read as follows:

Rule 185 (a). All matters relating to or affecting the statutes or law of the State of Idaho, rules of court, the policy of the Idaho State Bar or the government of the Idaho State Bar or of the local bar associations shall be determined by the members of the Idaho State Bar by direct secret ballot or through a vote of the local bar associations, after consideration of the question at a local bar association meeting, as provided in this rule.

(b). At a time and place selected by the Commissioners in the month of October of each year there shall be a meeting of the delegates of each local bar association organized and existing as provided in Rules 186 and 187, which shall be open to any member of the Idaho State Bar. Each local bar association shall elect or appoint three members from the local bar to serve as delegates to the meeting. The vote of each local bar on any question shall be cast at the October meeting as instructed by the local bar or as determined by majority of the delegates of that local bar present at the meeting.

(c). Resolutions of any local bar association to be presented to the October meeting of the delegates and subsequently circulated for action by the local bar associations, shall be submitted in writing, with copies of any proposed legislation attached, to the office of the Secretary or Executive Director of the Idaho State Bar on or before September 25th. Each resolution submitted shall be reviewed by the

delegates so that they may become familiar with the purpose of the resolution and report to the members of their local bar.

(d). At the October meeting the delegates shall consider any other written resolutions submitted by the Commissioners, the duly appointed committees of the Idaho State Bar or any members of the Idaho State Bar presented at appropriate times on an agenda prepared by the Commissioners for the meeting. Any member of the Idaho State Bar submitting a resolution who is not present shall submit a brief signed statement explaining the purpose of the resolution for the consideration of the delegates.

(e). All resolutions submitted by the local bar associations and all other resolutions approved by a majority vote cast by the delegates, as provided in this rule, shall be published in The Advocate or otherwise circulated directly to the members of the Idaho State Bar as soon as practical by the Commissioners. Each resolution following its publication or dissemination shall be considered by the members of each local bar association at a meeting called for the purpose of voting on such resolutions prior to December 1st of each year.

(f). At a time and place determined by the Commissioners in December of each year there shall be a meeting of the delegates of each local bar association organized and existing as provided in Rule 186 and 187 which shall be open to any member of the Idaho State Bar. Each local bar association shall elect or appoint one member of the local bar as the delegate to the meeting who shall cast the vote of the local bar on each resolution circulated and acted on by the members of that local bar association.

(g). Each local bar association, organized and existing

as provided in Rules 186 and 187, shall be entitled to as many votes as there are bonafide residents, members of the Idaho State Bar, within the territorial limits of such association at the time of such meeting and any duly appointed delegates of any local bar association present at such October and December local bar delegate meetings shall cast the entire vote of the members of such local bar association on any question presented. The vote of each local bar shall be cast as a single unit vote and not divided on any question unless the delegates are instructed otherwise by local bar resolution.

(h). A resolution may provide whether a referendum of the membership shall be taken on any question and the form and substance of the question to be presented, which question shall be so framed as to be capable of answer by "yes" or "no". The Secretary or Executive Director shall prepare ballots within ten days following the December meeting of the local bar delegates containing such questions and mail one thereof to each member of the Idaho State Bar, such ballots to be returned personally or by mail to the Secretary or Executive Director within 15 days after the date the ballot was mailed to each attorney. Envelopes containing voted ballots shall be endorsed and envelopes and ballots opened, deposited and canvassed as provided by Rule 182(b) except that the Board of Commissioners shall constitute the canvassing committee. Canvassing shall be performed at the Board meeting following the closing of balloting and the Board shall declare the majority vote to be the opinion of the Idaho State Bar on said question and publish the same.

(i). The delegates at the December meeting of the local bar delegates meeting may, upon a majority vote, as provided in paragraph (g), adopt resolutions which have not been circulated to the members of the Idaho State Bar and voted on at the local bar meetings but all such resolutions relating to or affecting statutes of the State of Idaho, rules of court, the policy of the Idaho State Bar, or the government of the Idaho State Bar or of the local bar associations shall be determined by majority vote of the members of the Idaho State Bar, by secret ballot submitted to each member for vote as set out in paragraph (h), but the form of the question shall be determined by vote of the local bar association delegates.

(j). If the Commissioners of the Idaho State Bar determine that an emergency exists and that the decision of the Idaho State Bar members is needed on any question they may call a meeting of the delegates of the local bar associations last appointed to attend the December meeting of the local bar delegates, or any alternate designated by the local bar president, and upon a majority vote as provided in paragraph (g) may submit a question for vote to the members of the bar as provided in paragraph (h).

BE IT FURTHER RESOLVED: That the Supreme Court of Idaho be petitioned by the Commissioners to adopt the revised Rule 185 prior to September 31, 1973 so that the local bar delegates may prepare further amendments to other rules in the fall of 1973 to implement this resolution and to adopt or change other rules for the government of the bar, consistent with this resolution.



RESOLUTION #4

RESOLUTION

BY THE FOURTH DISTRICT BAR

WHEREAS, the Annual Meeting of the Idaho State Bar traditionally held in June or July of each year requires the expenditure of large amounts of time by the staff of the Idaho State Bar who are paid out of each bar member's license fees:

WHEREAS, the annual meeting is attended by only a small percentage of the attorneys whose fees are used to support the event and the remainder of the attorneys receive very little in the way of benefits from the annual meeting;

AND WHEREAS, a summer meeting of the members of the Idaho State Bar principally oriented towards a continuing legal education program rather than a social program would benefit a much larger number of attorneys;

NOW, THEREFORE, BE IT RESOLVED, that the Commissioners of the Idaho State Bar and the Continuing Legal Education Committee of the Idaho State Bar be instructed to schedule and conduct a summer continuing legal education program in the summer months of 1974 and annually thereafter devoted to the review and study in depth of subjects of interest to the members of the bar for the benefit of the members and their clients. On the last day of such institute a review of significant Supreme Court decisions and new legislation adopted in the previous year shall constitute an additional part of the program and the Commissioners are further instructed to have the Continuing Legal Education Committee print a concise summary of these decisions and recent legislation in order that the same be circulated by mail to each member of the bar without cost or fee charged for the dissemination of this material.

BE IT FURTHER RESOLVED, that in conjunction with the annual Continuing Legal Education Program the Commissioners schedule one social event on the evening before the final day of the program for the purpose of introducing the newly elected Commissioner and officers, presenting awards or otherwise honoring any member of the Idaho State Bar for services performed, or for other purposes determined by the Commissioners.

BE IT FURTHER RESOLVED that in order to determine the wishes of the members of the Idaho State Bar to the fullest extent possible, the question of whether a summer continuing legal education program should be developed pursuant to this resolution shall be submitted in a general referendum to the membership pursuant to Rule 185 of the Rules of the Supreme Court and Board of Commissioners of the Idaho State Bar following the annual meeting of the Idaho State Bar in the summer of 1973 with the question to be presented worded as follows:

Should the Commissioners of the Idaho State Bar and the Continuing Legal Education Committee of the Idaho State Bar plan and conduct a meeting of the members of the Idaho State Bar in the summer of 1974, and annually thereafter, oriented primarily toward the continuing legal education of the members of the Idaho State Bar and devoted to the study in depth of areas of the law of benefit to Idaho attorneys and their clients in lieu of the traditional type of annual meeting devoted to extensive social as well as educational and business interests?

Answer: \_\_\_\_\_ Yes or \_\_\_\_\_ No.

RESOLUTION #5

RESOLVED: That the Board of Commissioners of the Idaho State Bar, pursuant to Resolution 12 adopted by the Idaho State Bar at its 1972 annual convention, does hereby recommend to the Supreme Court of the State of Idaho that Rule 116 of the Rules of the Supreme Court and the Board of Commissioners of the Idaho State Bar be amended to read as follows:

"Rule 116. The right to engage in the practice of law in the State of Idaho shall, after admission, be dependent upon continued bona fide residence in the State of Idaho and the payment of the annual license fee as may be fixed by statute.

"Any member of the Idaho State Bar, who, after admission ceases to be a bona fide resident of the State of Idaho or who fails to pay such annual license fee may maintain an affiliate membership in the Idaho State Bar upon payment to the Idaho State Bar of an affiliate membership fee of \$25.00 per year. Such affiliate member of the Idaho State Bar shall not be entitled to engage in the practice of law in this state until such member again establishes a bona fide residence in this state and pays the annual license fee fixed by statute for the then current year.

"An affiliate member of the Idaho State Bar shall be entitled to attend all meetings of the Idaho State Bar but shall not have the right to vote members of the Idaho State Bar at any such meetings; such affiliate member shall receive all publications of the Idaho State Bar which are generally disseminated to attorneys admitted to practice in this state and shall be entitled to engage in the practice of law in this state upon again establishing and maintaining a bona fide residence in Idaho and upon payment of the statutory license

fee for the then current year; provided, however, that no person admitted to practice law in this state and who thereafter ceases to be a bona fide resident of Idaho for a continuous period of 36 months or more or who fails to pay the annual license fee prescribed by statute for 3 or more license years except while serving as a judicial officer of the United States or the State of Idaho, and whether or not he shall have maintained during such time an affiliate membership in the Idaho State Bar, shall be entitled to thereafter engage in the practice of law in this state upon again establishing and maintaining a bona fide residence in this state and tendering payment of the annual license fee prescribed by statute for the then current year until such person shall have demonstrated to the satisfaction of the Board of Commissioners of the Idaho State Bar that he then possesses the necessary moral character prescribed in Rule 107 of these rules and that he has not been disbarred or is not then suspended from the practice of law in any state in which he has at any time been admitted to practice."

RESOLUTION BY A GROUP OF YOUNG  
LAWYERS TO CREATE A STATEWIDE  
YOUNG LAWYERS SECTION

WHEREAS, membership in the legal profession is increasing rapidly throughout the United States and in Idaho, the legal profession having been described as a "doubling profession" by the American Bar Association Journal (Opinion & Comment, March, 1972, at 270);

WHEREAS, this clearly raises a question of what new lawyers are going to do and how they are going to be integrated into the legal profession in Idaho;

WHEREAS, The American Bar Association past president Leon Jaworski has stated that the growth of the legal profession has already yielded some tangible dividends, "by bringing into the law a generation of highly qualified and motivated young men and women who will have much to contribute in professional services to society and to the work of the organized bar" (President's Page, American Bar Association Journal, April, 1972, at 325);

AND WHEREAS, there are many new lawyers in Idaho who want to contribute their efforts toward improving and benefiting both the Idaho State Bar and the public interest;

NOW THEREFORE, BE IT RESOLVED, that the members of the Idaho State Bar approve and recognize a statewide Young Lawyers Section of the Idaho State Bar;

BE IT FURTHER RESOLVED, that the statewide Young Lawyers Section will consist of all members of the Idaho State Bar in good standing who have held membership in the Idaho State Bar for less than ten (10) years;

BE IT FURTHER RESOLVED, that the purposes of the statewide Young Lawyers Section shall include stimulating the interest of young lawyers in the objects of the Idaho State Bar and the local bar associations, to carry on activities and legal education seminars which will be of value to young lawyers in the practice of law, to be of service to the entire bar, to the courts of Idaho, and to the community, and to make reports and recommendations to the Idaho State Bar or to its Resolutions Committee;

BE IT FURTHER RESOLVED, that the emphasis of the aforesaid activities will be local in nature with a view toward local bar funding, though inter-district attendance, participation and assistance in developing programs, recommendations and reports is encouraged;

BE IT FURTHER RESOLVED, that the Executive Committee of each district bar association shall allocate and distribute annually one quarter of the sum of the license fees paid by the members of the Young Lawyers Section of each district and distributed to each district by the Idaho State Bar for the activities of the Young Lawyers Section in each district; that these monies may also be used for inter-district programs and activities;

BE IT FURTHER RESOLVED, that the Young Lawyers Section of each district bar association shall annually report its expenditures to the district bar association and shall combine with other Young Lawyers Sections in other districts to make a full annual report to the Idaho State Bar, said report to include fiscal matters, activities programs, seminars, reports and recommendations made by the Young Lawyers Section of each district bar association;

BE IT FURTHER RESOLVED, that a representative from the Young Lawyers Section of each district bar association shall attend a meeting duly called by the Executive Director of the Idaho State Bar on December 3, 1973 to adopt by majority vote of those representatives present, rules and regulations to govern the statewide Young Lawyers Sections, which rules and regulations shall be submitted to the Idaho State Bar Commissioners for approval at their 1973-74 mid-winter meeting.

RESOLUTION #6A

RESOLUTION BY THE IDAHO STATE BAR  
APPROVING THE CREATION OF A  
STATEWIDE YOUNG LAWYERS SECTION

WHEREAS, membership in the legal profession is increasing rapidly throughout the United States and in Idaho, the legal profession having been described as a "doubling profession" by the American Bar Association Journal (Opinion & Comment, March, 1972, at 270);

WHEREAS, this clearly raises a question of what new lawyers are going to do and how they are going to be integrated into the legal profession in Idaho;

WHEREAS, the American Bar Association past president Leon Jaworski has stated that the growth of the legal profession has already yielded some tangible dividends, "by bringing into the law a generation of highly qualified and motivated young men and women who will have much to contribute in professional services to society and to the work of the organized bar" (President's Page, American Bar Association Journal, April, 1972, at 325);

AND WHEREAS, there are many new lawyers in Idaho who want to contribute their efforts toward improving and benefiting both the Idaho State Bar and the public interest;

NOW THEREFORE, BE IT RESOLVED, that the members of the Idaho State Bar approve and recognize a statewide Young Lawyers Section of the Idaho State Bar;

BE IT FURTHER RESOLVED, that the statewide Young Lawyers Section will consist of all members of the Idaho State Bar in good standing who have held membership in the Idaho State Bar for less than ten (10) years;

BE IT FURTHER RESOLVED, that the purposes of the statewide Young Lawyers Section shall include stimulating the interest of young lawyers in the objects of the Idaho State Bar and the local bar



association, to carry on activities and legal education seminars which will be of value to young lawyers in the practice of law, to be of service to the entire bar, to the courts of Idaho, and to the community, and to make reports and recommendations to the Idaho State Bar or to its Resolutions Committee;

BE IT FURTHER RESOLVED, that the emphasis of the aforesaid activities will be local in nature with a view toward local bar funding, though inter-district attendance, participation and assistance in developing programs, recommendations and reports is encouraged;

BE IT FURTHER RESOLVED, that each district bar association is encouraged to authorize its Executive Committee to allocate and distribute upon request by the Young Lawyers Section of each district sufficient funds to carry out the activities of the Section without further action by the association; and that these monies may also be used for inter-district programs and activities;

BE IT FURTHER RESOLVED, that the Young Lawyers Section of each district bar association shall annually report its expenditures to the district bar association and shall combine with other Young Lawyers Sections in other districts to make a full annual report to the Idaho State Bar, said report to include fiscal matters, activities, programs, seminars, reports and recommendations made by the Young Lawyers Section of each district bar association.

BE IT FURTHER RESOLVED, that a representative from the Young Lawyers Section of each district bar association shall attend a meeting duly called by the Executive Director of the Idaho State Bar on December 3, 1973 to adopt by majority vote of those representatives present, rules and regulations to govern the state-wide Young Lawyers Sections, which rules and regulations shall be submitted to the Idaho State Bar Commissioners for approval at their 1973-74 mid-winter meeting.

RESOLUTION #7

PROPOSED RESOLUTION

Be it resolved that:

No person who desires to practice law in Idaho, or before the courts therein, is required to be a member of the Idaho State Bar, or any other association, nor required to be licensed or registered by any state authority, nor subject to control by any canons of ethics; except that such person is subject to legislative, executive or judicial control as to any wilful and intentional misconduct while actually physically appearing in a court within Idaho; and further, that such person is liable civilly or criminally for any acts otherwise within the scope of the general civil or criminal law.

PROPOSED DRAFT OF BILL

AN ACT

REPEALING CHAPTERS 1, 2, 3, AND 4, OF TITLE 3, IDAHO CODE, RELATING  
TO ATTORNEYS AND COUNSELORS AT LAW:

Be it enacted by the Legislature of the State of Idaho, that  
Chapters 1, 2, 3, and 4, of Title 3, Idaho Code, be and the same  
are hereby repealed.

PROPOSED DRAFT OF LEGISLATIVE RESOLUTION

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF IDAHO BY ADDING THERETO SECTION 22, TO PROVIDE FOR THE FREE PURSUIT AND FREE EXERCISE, WITHOUT ANY GOVERNMENTAL CONTROL OR INTERFERENCE WHATSOEVER OF ANY NATURE, OF ANY TRADE, OCCUPATION, PROFESSION, SPEECH, ASSEMBLY, PRESS, OR CONTRACT, EXCEPT THAT THE SAME MAY BE CONTROLLED WHERE THE PUBLIC HEALTH OR MORALS WILL BE SUBJECT TO SUBSTANTIAL DANGER OR DESTRUCTION;

Be It Resolved by the Legislature of the State of Idaho;

That there be added to Article I of the Constitution of the State of Idaho the following Section;

§ 22 Right to pursue and exercise any trade, occupation, profession, speech, assembly, press or contract.— The people have the right to pursue and exercise any trade, occupation, profession, speech, assembly, press or contract, without any governmental control or interference whatsoever of any nature, except that the same may be controlled where the public health or morals will be subject to substantial danger or destruction.

BRIEF IN SUPPORT OF PROPOSED RESOLUTION,  
LEGISLATION AND CONSTITUTIONAL REVISION

The 14th Amendment of the U.S. Constitution by clear cut case law makes the 1st Amendment of the U.S. Constitution applicable to the States. The 1st Amendment to the U.S. Constitution reads as follows;

(Religious and political freedom.)—Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or of the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

What more does an attorney and client do than speak, utilize the press, peaceably assemble and petition the government for a redress of one or both of the parties grievances by legal process?

Clear case law, so abundant that it need not be cited, guarantees one the freedom of association under this amendment. Freedom of association clearly includes the right to speak, assemble, and write for each others common good, without one party being forced by law to be a member of an association created by the local, state or federal government.

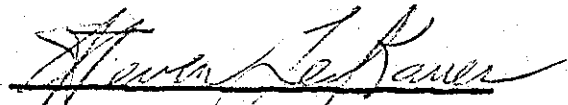
The Idaho Constitution, Article I Sections 9 and 10 read as follows;

§ 9. Freedom of speech.—Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty.

§ 10. Right of assembly.—The people shall have the right to assemble in a peaceable manner, to consult for their common good; to instruct their representatives, and to petition the legislature for the redress of grievances.

The actions of an attorney and his client are composed of none other than, public or private speech, public or private assembly, public or private press, public or private writing or publishing, and public or private association for the common good of such people.so assembled.

Respectfully Submitted,



Steven L. Kauer  
Attorney At Law  
444 North Maple  
Blackfoot, Idaho  
83221