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Thirty-Second Anual Meeting
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NOTE: The President's and Secretary's reports distributed in advance of the Annual Meeting are reprinted herein in the appendix starting at page 80.

Honorable Charles S. Rhyne
President, American Bar Association

Honorable Tom C. Clark
Associate Justice, Supreme Court
of the United States

Speakers . . . 1958 Annual Meeting

Luther M. Bang
Austin, Minnesota

John C. Satterfield
Chairman
Yazoo City, Mississippi

Honorable E. B. Smith
Boise, Idaho

John Ben Shepperd
Odessa, Texas

Philip S. Habermann
Milwaukee, Wisconsin

July 10, 1958, 2:00 p.m.

MR. ST. CLAIR: The thirty-second annual meeting of the Idaho State Bar is now in session.

At this time I would like to call on Father O'Conner to give the invocation. Please Stand.

REV. JEROME T. O'CONNER: In the name of the Father, the Son, and the Holy Ghost. Amen.

Gentlemen, I would present these little thoughts to you and you follow them in your own mind.

Oh, My God, through your Divine Son you have told us, "Ask and you shall receive, seek and you shall find." You have also told us that whatsoever we shall ask of you in the name of thy Divine Son, you will give it to us. This afternoon we ask of thee most humbly thy divine guidance and help. Help me as an individual to recognize my great responsibility to my own particular community; that I am a man with a profession, and being such that I have a great responsibility in my own community. Through the portals of my office each day come human beings unlike other professions that look to the part of the individual, I look to the person.

In coming to this convention enlighten my mind that I may recognize the ideas and thoughts that will be helpful to me to carry out the great office that is mine in my own community. Help me always that I may be one who lifts rather than pulls down. Help me through thy Holy Spirit, that as I go through life and the closing years come in upon me, and then when my epitaph is to be written they may say of me that I was a good man. Therefore we beseech Thee, direct, we beseech Thee, our Lord, our actions by thy holy inspirations and to carry them on by thy gracious assistanee, that every prayer and good work of ours may begin always from Thee and by Thee be happily ended, through Christ our Lord, Amen.

In the name of the Father, the Son, and the Holy Ghost, Amen.

MR. ST. CLAIR: At this time I would like to appoint a couple of committees. The first one, the Canvassing Committee, which will canvass the votes for the election of the Commissioner from the Eastern District. Chairman of that committee will be Ed Pike. Chick Donaldson and Wynne Blake are the members. That committee can meet in Room 233-A, which is Paul Ennis' room, at their convenience, but to report back tomorrow at the morning session as to the result.

The Resolutions Committee this year is composed of all the presidents of the local bar associations, and Sid Smith from Coeur d'Alene is chairman. There are several of the presidents who are not here so some of the names I read will be substitutes for those presidents. From the Shoshone District, Richard Magnuson; Clearwater, Wayne MacGregor; Third District, John Hawley; Fourth and Eleventh Districts, Bert Larson; Southeastern, Jayson Holladay; Seventh District, Bill Gigray; Sixth, Blaine Anderson; Eighth, Jim Ingalls; Ninth, Joe Anderson; Twelfth, Grant Young.

You will recall that the Commision last year established a policy whereby the President's Report was published and printed in the bulletin. This year the President's Report was printed in The Advocate. Now I am pleased in that I will not have to give the bar a report, and in this respect you should all be pleased in that you will not have to endure it. However, as a pictorial supplement to my

report, I have taken colored slides of the 88th ABA meeting in New York, and in England, and I would like to show those slides to any members who are interested in the Ski Room in the Lodge, which is on the main floor, at 2 o'clock tomorrow afternoon. And I hope yon won't feel that I am going to violate Canon 35 because I would like to take a few pictures here today, especially of John Satterfield. I took one of him in London and would like one now of his head without the cover on it.

At this time I would like to call on Commissioner Bellwood from the western District to introduce the speaker. Sherm.

JUDGE BELLWOOD: Members of the Bar and Guests: It is a distinct pleasure at this time to introduce to you a man whose name, I think, is synonymous with Idaho. He is Chairman of the Western Governor's Conference and an Idaho lawyer.

Will Bob Stephan and Ray McNichols kindly escort Governor Robert E. Smylie to the podium? (Applause).

I present to you Governor Robert E. Smylie.

GOVERNOR ROBERT E. SMYLIE: Mr. President, Commissioners Bellwood and Spear, (This is one of the few times we can get away with that, I take it) Mr. McNichols, Mr. Stephan, Members of the Idaho State Bar, and looking around thc audience and observiug the automobiles parked in the parking lot, perhaps I should say, Fellow Candidates:

It is a real pleasure and privilege for me to be able to participate once again, I think this is the 12th time, in this annual eonvention of the Idaho State Bar. Most of you are beginning a vacation and I am just now getting used to wearing a suit again. I have becn up in the mountains since the third of July fishing, and we have been having a pretty fair time; I think I should urge you all to go to Stauley Basin because after I got through up there, there were plenty of fish left. Our wildlife resources certainly are in no danger from me.

I did a little wondering about what I might say in response to the Commission's kind invitation to visit with you for a little while this afternoon, and I thought for a while I might talk about the office that I am privileged to administer for the time, but if I said anything about the office, why McNichols would either claim it was political or that I didn't know what I was talking about anyway. I thought perhaps that would be offending your nonpartisan constitution.

I thought maybe I could take a page from some mail that came to the office. It turned out Governor Freeman of Minnesota made a speech about eight or nine days ago to the Minnesota State Bar Convention, and some of these lawyers, apparently they are running for one thing or another, mailed copies of these speeches around the country. This speech I thought I hadn't ought to inflict on you because by actual count it ran to 31 single-spaced pages, and as near as we could figure out it would take somewhere in the neighborhood of two hours and fifteen minutes to deliver. It doubtless was a very learned speech but I don't want to inflict anything like that on you because I know you have an excellent program lined up.

I think I might tell you about a letter we received in the office. This fellow wrote to say he couldn't sleep and he thought the reason for this was he hadn't paid his taxes in 1948 and he enclosed a check for $127.00, and he said

if he didn't sleep better he would send the balance. Of course, we haven't heard from him recently either.

I am very much impressed with the distinguished roster of speakers who are going to address you in this convention. I am particularly interested in the panel that you are going to be hearing this afternoon, Mr. Satterfield, Mr. Bang, and Mr. Habermann, who are going to talk on a subject that is near and dear to the hearts of every one of us, that is how to make some moncy out of practicing law. This I must confess to you, gentlemen, is a subject that I was never very well posted on, which is probably the reason I was Attorney General and then Governor.

I also am going to be looking forward to hcaring Justice Clark speak tomorrow morning because I think he was one of the first members of the Department of Justice whom I ever heard argue a case in the Supreme Court of the United States when I was going to law school at George Washington, and of course, Charlie Rhyne who will also be with you went to George Washington Law School with me and we both sat at the feet of some very great professors there. I suspect that some of the inspiration that he got from gentlemen like Charles Collier and Dean Spaulding and Dean Van Dyke are a little of the reason that he chose as his contribution to the American Bar Association the chore of designating May 1 as Law Day in the United States, and it is a pleasure to me, although he is not present, to salute his achievement in this regard; I think it is one of the significant new departures that our profession has undertaken to choose a day that, literally, was bootlegged by Russia from the Anglo-Saxon people—a day of spring festival—and turn it into a day of Red celebration as the Russian people have done. We needed some sort of a countering mechanism and I think a day set aside to pay tribute to our purely Western and purely American institutions—to call attention to them—was an exceptionally fine idea and one which I certainly hope will endure.

The dictatorships, whether they are Nazis or Fascists or Communists, have, in order to impress the world, paraded always thc source of their power on their national holidays, and on Law Day Americans presented to the world a very different source of our enduring and our inexhaustible strength.

Almost uniformly on May 1 the Communists have paraded their guns, their tanks, their planes, and now their satellite launchers, and on Law Day we brought into position probably before all of our fellow Americans, with the cooperation of each of the individual bars of the United States, the symbols of our basic liberties that are guaranteed in the Bill of Rights, and of the basic responsibilities that are laid upon free citizens to keep those rights alive and unperiled from generation to generation—things like our free courts, our freedom to worship, to speak, to print, our freedom of enterprise, to do, to fail perhaps, and then try again.

We need to keep the lamps of freedom burning ever more brightly in these years that are just ahead. The hideous murder of the Hungarian patriots makes it most important that we exhibit our proud heritage of freedom to the uncommitted peoples of all the world. And on an occasion such as Law Day it makes it possible for us to renew our faith in freedom and to rededicate ourselves to the responsibilities of that freedom—not alone for our own country's sake, for throughout American history there has glowed the vision of America as a beacon to mankind. Washington fought for it in the Revolution, Jefferson interpreted it to the world in terms of the common man, and Lincoln recaptured it and sealed it

with his own life's blood. I doubt if it has ever been said more prophetically than by Theodore Roosevelt when he said that the history of America is now the central feature of the history of the world, for the world has set its faith hopefully toward our Republican democracy, and my fellow citizens, each one of you carry on your shoulders not only the burden of doing well for the sake of your own country, but the burden of doing well and seeing that this nation does well for the sake of all mankind.

For too long a time, I think, the word "patriotism" has been in disfavor. I think we should bring it back into currency, restore it to its ancient luster and its ancient honor. Patriotism that means love of country and has that free spirit that gives our country life and meaning, respect for the constitution, a sense of brotherhood under God, and reverence for the flag that is the symbol of it all. And we need, in this fifth century decade, to gird around us the armor of this shining faith. It will be our world, I think, or theirs. There can be no middle ground, certainly no turning back or standing still in this fifth century decade. Either our country will lead, or we will be led. And I think for lawyers, who essentially are leaders in each of their communities, and for this America of ours, and for all that it means in this mid-summer of 1958, one could look a long while to find an injunction more shiningly explicit in terms of the need of our country for a rekindled faith than the shining injunction St. Paul sent to the Corinthians so very many years ago:

"If your trumpet should sound an uncertain note, none will answer the call to battle."

And for America, and for our freedom, our trumpets must sound loud and clear in the years ahead, many times, in many places.

MR. ST. CLAIR: Thank you, Governor Smylie. At this time I would like to call on our Vice-President, Judge Clay V. Spear, who is chairman of the arrangements and will have a few remarks and will introduce the panel.

JUDGE SPEAR: Thank you, Mr. President. Ladies and Gentlemen: The president has asked me to emphasize just an item or two on the agenda to this year's annual meeting. Some of it I don't think you need any reminder on. The buffet dinner on the Terrace Lodge, which is an annual affair here, for those who have been coming, begins at 7 o'clock this evening. We are advised you can wait as long as perhaps 8:00 P.M., perhaps a few minutes after and still get something to eat. After that they close it and I guess it is a little difficult to get something to eat on the regular bill of fare unless you are there to eat at that time.

In keeping with a tradition started last year, we are continuing it this year and will try to continue it in years to come, tomorrow's session will begin at 9 o'clock and continue until noon and then you will have the entire afternoon free to do whatever you like, so we are urging you to come here right at 9 o'clock, if you would, please.

We have three most interesting speakers, we feel, leading off with Charlie Rhyne, the present President of the American Bar Association, followed by Justice Tom C. Clark, who, as you know, is the first Justice of the United States Supreme Court ever to address our Association, and the follow-up man is John Ben Shepperd, a former Attorney General and Secretary of State of the great State of Texas. We think you and your ladies will find the remarks of these gentlemen most interesting and we urge you to attend and to do it promptly so that we will not

be delayed. Tomorrow evening, of course, is the social hour about which I need not remind you gentlemen who have been here before. Payment therefor is deducted from your registration fee so you are all invited to be on hand. It is to he in the Redwood Room and the terrace thereof in the Lodge beginning at 6:30, followed immediately by our annual banquet.

Saturday morning we will start at 9:30. Again, we would like to have you here promptly because all of the business of the Association for the next year must be transacted between then and noon. Those of you who were here last year know we ran into difficulty with holding the Opera House over—President Willis Sullivan almost was beheaded by the management because of our actions. So, whether we are through or not, President St. Clair has advised me that when they tell us the time is up we will be finished, whether our business is, in fact, finished or not. We urge you to be on time Saturday morning. There will be nothing else at that session, except the business of the Association.

As Vice-President of the Association this year it was my privilege to arrange for the program. That isn't exactly an easy proposition. You try to find something that is informative as well as perhaps educational for the Association.

I was fortunate in attending the Atlanta Mid-Winter meeting of the American Bar at Atlanta, Georgia, at which the Special Committee on Economics of Law Practice of the American Bar Association made a panel presentation. It was excellently received; in fact, as well received as any program there at that meeting. Immediately upon learning that Justice E. B. Smith was on hand, I buttonholed him and made arrangements to meet the chairman of that committee to see if we couldn't prevail upon the committee to send a panel out here at our meeting. I am happy to report I was successful.

The chairman of this committee, who is present here today, is John C. Satterfield. He is an attorney from Mississippi, and in a large firm of attorneys in Jackson. He is a former president of the Mississippi Bar Association; he is presently a member of the Board of Governors of the American Bar Association and chairman of this committee, which is turning out to be a mighty important committee of the American Bar Association. It is with a great deal of pleasure that I present to you, Mr .John Satterfield. Mr. Satterfield. (Applause).

MR. SATTERFIELD: Mr. President, Vice-President, and Ladies and Gentlemen:

It is a pleasure for us to be here with you today. I feel, however, whenever I get up to make a talk, like the "Old Miss' boy who went over to M.S.C.W. to see his girl friend. "Old Miss" is the University of Mississippi, and M.S.C.W. is known either as Mississippi State College for Women, or Mississippi's Sweet Intellectual Women, depending on the viewpoint. He used to go over there; they had Shadduck Hall where the girls would eat. "Old Miss" boys would be broke and need a free meal so they would have lunch with the girls at Shadduck Hall. One day there were 500 or 600 girls and 4 or 5 "Old Miss" boys having lunch there together. The matron called on this "Old Miss" boy to return thanks. He didn't say the blessing at home but he was game. He stood up and shut his eyes and he shook and said: "Oh, Lord, we thank Thee for our sins, forgive us for this food. Amen"—which was one of the most sincere blessings ever asked.

So I mix up my words, and even though I attempt to make a living making speeches I still always feel a little this way, and a little that way, making

a speech. It is a real pleasure to be in Idaho because Idaho and Mississippi have a lot in common. Our weather went down to 98—cooled off the other day, so when I hit Salt Lake City yesterday afternoon and found that just south of you it was 95, which was up in your country pretty close, I felt pretty much at home.

It has been a real pleasure to work with your fine members of the Bar in American Bar Association work over a period of years. I have enjoyed, for a long time, and still enjoy working with A. L. Merrill, who has been an outstanding member of our Association; with Earl Smith, one of the men in the upper councils of the American Bar and looked upon as one of our solid and influential members of the Bar, and with Gilbert and Clay, and the other fellows who work in the American Bar. We have always had a great deal of help from your members in the American Bar Association.

Now, the title of this committee is: How To Be A Lawyer Without Being Broke; and the sub-title is: Do As I Say And Not As I Do.

When Charlie Rhyne set up his plans for this year, he picked, as one of his major points of emphasis, the matter of material help to the members of the American Bar Association in the business phases of the practice of law—economics of the legal profession — and he appointed this committee, charged with the responsibility of seeing what is being done and what should be done by the American Bar Association to aid its members and the profession, and state and local associations in the important phases of the business of the law practice.

We have, this year, been engaged in trying to get our feet on the ground. We have been cooperating with numerous agencies of the American Bar Association and of other organizations of the legal profession. We have worked with the National Council of Bar Presidents, the Section of Bar Activities, the American Bar Journal, the Committee on Coordination of Bar Activities, American Bar Foundation, and the American Law Institute. We have had representatives meet with our committee of the Department of Commerce of the United States, West Publishing Company, Bancroft-Whitney Company, Lawyers Cooperative Publishing Company, Prentice-Hall, Commerce Clearing House and other similar agencies. We have met in Chicago some 5 times and had a 2-day session each time; we have had voluminous correspondence with state associations and local associations and our committee.

We are trying to get set an overall program which will be one that will render assistance to members of the American Bar Association and state and local associations in this field. We believe that we must have a permanent program. It is our endeavor to work with state associations and local associations in setting up such a program.

I am chairman of the committee; we have with us Luther Bang, Earl, and Phil, who will be introduced as their time comes on the program. We also have as members, Paul Carrington of Dallas, Texas, and Willoughby A. Colby of New Hampshire, so that we have members representing associations from all parts of the United States and from all sizes of states.

We realize that 90.8 percent of the lawyers in the United States are either single practitioners, or in firms of 3 or less. In fact, about 65 percent are single practitioners and therefore this committee is trying to trend its service and its suggestion to the single practitioners, and those of us who practice in firms of 3 or less. We have found in reviewing the voluminous data available that a great

deal of it is directed toward the larger partnerships and partnership organizations, and much of it is not applicable to individual practitioners and to small partnerships. We have attempted to, and believe perhaps we have, assembled and read every article that has appeared in any legal publication in the last 20 years in this field. We have prepared a bibliography of this material in which we list 42 of what we feel to be the best articles. That has been sent to every member of the American Bar Association with this pamphlet, "The 1958 Lawyer and his 1938 Dollar," which has been distributed to you this afternoon and which has been sent to every member of the American Bar Association.

We have assembled 17 of those articles in a speaker's kit. Those articles are starred in the bibliography at the end of this pamphlet. Anyone who desires to obtain copies thereof can write to the American Bar Association Headquarters and for $1.00, which is less than the cost of duplication, obtain copies of 17 articles in this field.

We have contacted persons all over the United States, and individuals working in economics of law practice, and have prepared a speaker's panel of 38 lawyers from California to New York and from Oregon to Florida, who are available to speak on the field of economics of law practice, and they have agreed that they will appear at meetings of this kind throughout the United States and present problems arising in this field when they may be called upon.

We are setting up a program which will be explained as the several speakers present the numerous problems to you as we go through the afternoon. At the proper time as the program progresses, we will ask for questions. In addition to that, at any time if any of you have a question, and the spirit moves you so to do, do not hesitate to hold up your hand and ask for recognition. We will be glad to have any question at any time.

The first presentation in behalf of the committee will be made by your own Judge E. B. Smith. When Charlie Rhyne was looking around to find someone who had an outstanding record in his own association and was of real help to us in the American Bar—someone who was interested in bettering his profession from an unselfish viewpoint, he could think of none better than Judge Earl Smith. We all know him in the American Bar; we greatly respect his devotion to our profession and the unselfish service he has rendered over so many years. At this time we will hear from Judge Smith. (Applause).

JUSTICE SMITH: Mr. Chairman, Members of the Commission, and Members of the Idaho State Bar:

My subject matter has to do with the minimum fee schedule. At the outset, I realize, nationally, and particularly do I realize it in my own state, that the minimum fee schedule is controversial subject matter. I will admit that I for some years was somewhat opposed to a minimum fee schedule because fundamentally I thought it violated Canon 12, and also I thought it would set a maximum fee schedule when you set the minimum fee schedule. But as a member of this committee—and we have accomplished some considerable research work--I have come to a different conclusion, and I hope perhaps I will be able to convince some of the members of my own State Bar who are away of the thinking of this committee, and under the way of thinking of some good many bar associations.

Now, at the outset, I want it distinctly understood, as I generally desire it so to be, that I am talking as a member of my own beloved State Bar, and not as a

member of the judiciary. I feel, and always hope to be, and perhaps may be, considered a lawyer in the first place, as my dear friend, Charlie Rhyne, always wants to be considered and always will be.

The fact that I may be relegated, temporarily, at least, to the judiciary, is beside the question. I will admit to you that if the matter should come before me, let us say I will be delighted to be disqualified, so therefore, I feel with that explanation I can speak very frankly and very freely, and, as a matter of fact, perhaps take sides and advocate it to my own bar, which you will see that I do as I go along.

Now to preface what I have to say, I want to place before you the keynote of this thing, and which has been keynoted by my good friend, Luther Bang. Delving around someway, somewhere, to find the keynote to my subject matter, which is, I realize, purely professional and purely technical, I ran across something from Luther, and I will read it, a paragraph from one of his communications.

> "I have definitely observed that during the past recent years lawyers are more and more discussing and tending toward a minimum hourly rate as an approach more dependable than any other, as a basic advisory minimum fee schedule. I assure you that there is a wholesome sign in this, and I have a notion that most attorneys who have written articles in opposition to the adoption of an advisory minimum fee schedule would drop, or at least temper, their objection if they knew that in every case the recommended and advisory minimum fee bore a distinct relationship to the cost of performing services."

The American Bar Association's Special Committee on Economics of Law Practice believes that minimum fee schedules, adopted by Bar Associations, no longer present a controversial issue of ethics. Canon No. 12 of the Canons of Professional Ethics adopted by the American Bar Association, appears to sanction the adoption of minimum fee schedules, for therein it is stated:

> "In determining the customary charges of the Bar for similar services, it is proper for a lawyer to consider a schedule of minimum fees adopted by a Bar Association, but no lawyer should permit himself to be controlled thereby or to follow it as his fee."

Canon No. 12 admonishes the lawyer in fixing his fee, to consider certain elements, such as: The lawyer's time spent, the difficulty of the questions involved and skill required to conduct the cause; whether acceptance of the employment may involve reasonable expectation of additional employment, or loss of other employment, amount involved and benefits resulting to the client; contingency or certainty of compensation, and customary charges of the Bar for similar services. The Canon then admonishes that, "no one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service."

An advisory minimum fee should include monetary evaluations of all the considerations of Canon No. 12, and, particularly, the customary charges of the Bar for similar services. A minimum fee should take into consideration whether the amount to be charged will enable the lawyer: to occupy creditable office quarters, and pay his reasonable overhead expenses; to maintain a satisfactory credit rating by prompt payment of bills—and this constitutes a most important element of his national rating as a lawyer; to maintain himself and his dependents in accordance with a fair standard of living, representative of the legal profession

in his community; and in some measure, to provide for his future and that of his dependents.

Consider for a moment the negative aspects—what an advisory minimum fee should not countenance:

(1) It should not tempt the lawyer to slight work with consequent failure to discharge his duty under any circumstances, thereby to injure his reputation and bring his profession into disrepute.

(2) It should not invite danger and disaster to the lawyer and to his profession by encouraging the bargain hunting client, whose primary consideration is price, but who, nevertheless, will expect the utmost in time, effort, performance and result, all of which the client has a right to demand regardless of price.

(3) It should not disregard the lawyer's expenses of operation and his financial obligation to others, particularly to other clients.

(4) It should not tempt the lawyer to "make up" on one client what he has "lost" on another.

(5) It should not lay the foundation for less than fair and reasonable compensation, consonant with the results obtained, thus to lay the lawyer open to the suspicion of his colleagues, and in time to his clients and to the public; and

(6) Lastly, it should not disregard the lawyer's financial obligations to others, particularly to other clients; stated more drastically, it should not cause temptation to the lawyer, as by resultant needy circumstances, to appropriate moneys which do not belong to him, with the end result of utter disgrace and perhaps disbarment.

Obviously, any widespread undercutting or ignoring of a minimum fee schedule will tend to repudiate it, rendering it ineffective, to the detriment of all members of the legal profession in the locality in which the minimum schedule is intended to apply.

What is the meaning, or a fair interpretation, of the admonition of Canon No. 12 which recites that while it is proper for a lawyer to consider a schedule of minimum fees adopted by a bar association, "no lawyer should permit himself to be controlled thereby or to follow it as his fee."

Any control of fees on a median, average or maximum level, would appear to be violative of the Sherman Anti-Trust Act. But a minimum fee schedule does not fix or attempt to fix fees on any of those levels, nor even on a reasonable basis. The schedule is designed to suggest fees, below which a lawyer should not go; for it admonishes that if he does, the negative aspects—the dangers hereinbefore mentioned—will then have an immediate bearing.

It would seem that a minimum fee schedule cannot be condemned, any more than price fixing by labor unions for the commodity of labor in its various aspects. Fair trade acts are examples of legislative price fixing, as also are attorneys' fees in matters of probate of estates, fees of administrators and other trustees, and fees of real estate brokers; all such fees are fixed by legislative enactments, presumptively upon reasonable bases.

The conclusion, that legislative enactments, fixing prices for wages and com-

modities, are not violative of the Sherman Anti-Trust Act, presumptively attains only by virtue of reasonable exercise of police power in its general welfare aspects. If any such an enactment may be said to rest upon the basis of reasonable exercise of police power, it would be less vulnerable to legal attack than one not so founded.

Assuming logical grounds are advanced for the foregoing views, we again approach the negative aspects of cutting of fees below minimum fee schedules. Those negative aspects develop the idea that the minimum fee schedule must rest upon the fundamental basis of public welfare as to the class (the legal profession) adopting the minimum fee schedule, and the class (the populace) for whom the services are designed to be rendered.

The question has been asked frequently by Bar Association members: "Where a minimum fee schedule has been adopted by a bar association, what can be done with a lawyer who consistently undercuts an adopted minimum fee schedule?"

What, if anything, may your Committee or the legal profession suggest as an effective, though ethical, means of securing compliance with the letter and spirit of minimum fee schedules adopted by bar associations?

In this regard several points should be kept in mind, as for instance: First, we do not suggest any rigid, inflexible fee schedule or enforcement on that basis. For so to do would be in violation of Canon No. 12, in that the Canon admonishes that "no lawyer should permit himself to be controlled thereby or to follow it (minimum fee schedule) as his sole guide in determining the amount of his fee."

Second, and this is most important, Canon No. 12 states:

> "In fixing fees, lawyers should avoid charges which overestimate their advice and services, *as well as those which undervalue them.*" (Emphasis supplied).

We are not concerned with the occasional violation of an adopted minimum fee schedule, but with the cases which display flagrant, purposeful and substantial undercutting of such a schedule.

If the lawyer consistently sets his fees below the minimum fee schedule, then certainly he must be deemed to be under-evaluating his services and those of his lawyer brethren in performance of the particular kind of services to which the schedule applies. Under such circumstances a bar association should seek the motive of the lawyer member who consistently undercuts the schedule. That motive, singularly, must point to solicitation of professional employment on a basis not deemed ethical under Canon No. 12, simply because the professional service will have been undervalued with the resultant tendency to eliminate performance of professional services on a higher fee basis, in conformity at least to the minimum fee schedule.

We point to three instances of attempts to meet the situation of flagrant and consistent fee cutting.

The North Carolina Bar, on the matter of enforcing certain aspects of a minimum fee schedule against special undercutting, has rendered an opinion (Opinion 43, 1947), which reads as follows:

> "Where a local bar association adopts a schedule of minimum title fees, it is a violation of the canons of ethics for said association then to grant a reduction of said fees to certain leading institutions that attend to some of the details of 'closing' the loan for which the title examination was made."

The Wisconsin Bar Association, in its approach to the matter of habitual and notorious performance of legal services for less than that set forth in adopted minimum fee schedules, presented the matter to its Committee on Ethics. The resultant opinion rendered by that Association reads as follows:

"STATE BAR OF WISCONSIN

OPINION NUMBER 8

"Fee cutting is Solicitation of Business and Unethical.

Question: Inquiry has been made as to the ethical propriety of a lawyer habitually and notoriously offering to perform legal services for less than the fees set forth as a guide in a duly adopted fee schedule.

Answer: There is no question but that this is a vicious form of 'solicitation', is degrading to the honor of the profession, in violation of Canon 29, and is also in violation of that Canon which states:

> 'Efforts, direct or indirect, in any way to encroach upon the business of other lawyers are unworthy of those who should be brethren at the bar.'

Solicitation and encroachment upon the practice of others does not benefit the public or the profession as a whole. It is unethical for a lawyer to be improvident to the point that it results in poor service to the public and the causes of justice. These schedules of suggestions were made after long and still continuing study as to fees customarily charged for such services and deemed to be adequate to the end that a lawyer may fairly serve the public by being able to devote sufficient time and study to the work, being equipped and able to do it properly and keeping himself well informed in the law. Improper and inadequate legal work is a disservice to public justice. Such schedules indicate minimums by which a lawyer may know whether he is 'soliciting' by known underbidding. This opinion is not intended to mean that a Fee Schedule should be an absolute and sole criterion, since lawyers should always consider clients as individuals, and charges for services should ever be based upon the principles of Canon 12 of the Canons of Ethics of the American Bar Association which have been adopted as the Canons of the Wisconsin Bar."

The propriety of a member of the Bar knowingly and intentionally setting his fees less than an established minimum fee schedule, was submitted recently to the Committee on Professional Ethics of the Idaho State Bar. Idaho's Committee reviewed Canon No. 12 of the Canons of Ethics; also the American Bar Association's Opinion No. 28, in effect ruling that an *obligatory* fee schedule must necessarily conflict with that independence of thought and action which is necessary for professional existence; also said Association's Opinion No. 171 to the effect that no lawyer should permit himself to be controlled by an *obligatory* minimum fee schedule.

Idaho's Committee then reviewed the action of the Wisconsin Bar, and then, in the light of Idaho's Supreme Court Rule No. 187, hereinafter discussed, ruled:

> "It is the opinion of this committee that any lawyer who, in setting his fees, deliberately and habitually undercuts the customary charges of the Bar for similar services, the effect of which is to solicit business, and such fees cannot be justified under the guideposts outlined in Canon 12, is violating the Canons of Ethics. This would be true regardless of the existence of a minimum fee schedule."

(The full text of the Opinion of Idaho's Committee on Professional Ethics is set forth and appended hereto as an addendum).

The American Bar Association's Committee on Ethics and Grievances has not rendered an opinion on this specific question.

We point to the case of U. S. v. National Assoc. R.E.B., 339 U. S. 485, 94 L.Ed. 1007 (1949), which held that an agreement among real estate brokers to fix rates of brokerage commission was an unreasonable restraint of trade. The Real Estate Board's Code of Ethics provided: "Brokers should maintain the standard rates of commission adopted by the board and no business should be solicited at lower rates." Mr. Justice Jackson in his dissent pointed out that price fixing by real estate brokers is no more offensive than uniform prices for lawyers, doctors, carpenters or plumbers. The majority laid stress upon the faet that the language of the Brokers' Code of Ethics might be construed to allow enforceability.

Clearly, this case did not involve a minimum schedule of brokers' fees, but a schedule of "standard rates of commission adopted by the board."

As hereinbefore pointed out there is much to be said about enforceability of a minimum fee schedule, below which the lawyer should not go, by reason of service thereby being undervalued as well as the dangers which implicitly lurk in such practice, and that a minimum fee schedule may singularly rest upon the fundamental basis of aspects of public welfare.

If we may assume that a law which fixes prices rests upon the fundamental theory of reasonable exercise of police power, may the problem of the minimum fee schedule be solved by clothing the schedule with the legality by rule of court, reasonably affecting its judicial officers (which lawyers are) based upon aspects of general welfare.

In this respect I point to the only known instance wherein a court rule suggests such a solution. Idaho, by its Supreme Court Rule No. 187, has integrated local bar associations by court rule, even to the extent of suggesting a form of uniform by-laws for those associations. Section 10 of the Uniform Association By-Laws, insofar as it has a bearing on the matters under discussion here, in part reads:

> "The Association is empowered to adopt such 'rules and regulations as it shall see fit, including a minimum fee schedule as hereinafter defined, to fix and prescribe penalties for the violation thereof and the machinery for the enforcement thereof not inconsistent with the rules and regulations of the Supreme Court, the State Bar or the Board of Commissioners of the State Bar.'
>
> "Any minimum fee adopted shall not be construed as fixing the maximum fee or the reasonable fee to be charged in any given case or situation; in determining the amount of fee to be charged for any legal service ° ° °
>
> (Here follows enumeration of the various situations to be considered similar to Canon No. 12 of the Canons of Professional Ethics)
>
> - - the reasonable or maximum fee being ultimately a question between the attorney and the client."

Clearly, notorious and flagrant undercuttiug of a bar association's adopted minimum fee schedule has a direct bearing on the economics of the legal profession in the locality where the minimum fee is intended to be in effect. The question is deemed to be of sufficient importance as a local problem to justify

deep study and action by both state and local bar associations, particularly in those communities which are afflicted with such practiee.

We have attempted to ascertain the work done nationally relative to adoption of minimum fee schedules. We have obtained 666 fee schedules adopted by local bar associations in all states.

We feel that the minimum fee schedule met with greater success in those states in which the State Bar took the lead in making the study, and then making recommendations to the local bars. Those states from which we have received information are: New Hampshire, North Carolina, Mississippi, Nebraska, North Dakota, South Dakota, Wyoming, Oregon, with some indications of study from state level by the Idaho State Bar. Montana is now making a study at State Bar level.

It is the feeling of the Committee that better results are to be obtained if the study of minimum fee schedules is made at the State Bar level, with the recommendations extending down to the local bar associations. Obviously greater uniformity ought to be attained by such method.

ADDENDUM

COMMITTEE ON PROFESSIONAL ETHICS
IDAHO STATE BAR

OPINION NO. 7.

INTENTIONAL FEE CUTTING.

Our opinion has been requested as to the propriety of a member of the Bar knowingly and intentionally setting his fees at less than established by a minimum fee schedule.

Clearly there is authority for a local bar association to adopt a minimum fee schedule, as the same is provided for in Rule 187, Section X, of the Rules of the Supreme Court governing the Board of Commissioners of The Idaho State Bar. This section, which is a part of the Uniform By-laws of local bar associations, reads:

"SECTION X – RULES AND REGULATIONS

"The Association is empowered to adopt such rules and regulations as it shall see fit, including a "minimum fee schedule as hereinafter defined, to fix and prescribe penaltics for the violation thereof and the machinery for the enforcement thereof not inconsistent with the rules and regulations of the Supreme Court, the State Bar or Board of Commissioners of the State Bar.

"Any minimum fee adopted shall not be construed as fixing the maximum fee or the reasonable fee to be charged in any given case or situation; in determining the amount of fee to be charged for any legal service, there should be taken into consideration the actual time required, the character of the question involved and their difficulty, and the skill required to properly conduct the business; the possibility of an acceptance of the particular business precluding the lawyer's representing other persons in similar cases, or cases likely to arise out of the transaction, and when there is a reasonable expectation that otherwise he would be employed on the other side of the transaction; the customary charges for similar services; the

amount involved in the service or in the controversy; the contingency or certainty of the compensation; the character of the employment as being casual or for an established and constant client; the standing, experience and ability of the lawyer; the relations existing between the attorney and the client in reference to other business, particularly the annual retainers; the ability to pay and the result obtained—the reasonable or maximum fee being ultimately a question between the attorney and the client."

Canon 12 of our professional ethics similarly provides in part:

"In fixing fees, lawyers shall avoid charges which overestimate their advice and services, as well as those which undervalue them."

"In determining the customary charges for the Bar for similar services, it is proper for a lawyer to consider a schedule of minimum fees adopted by a Bar Association, but no lawyer should permit himself to be controlled thereby or to follow it as his sole guide in determining the amount of his fee."

The American Bar Association committee on ethics has ruled twice regarding obligatory fee schedules. In its Opinion No. 28 is found the following cautionary language:

"Aside from such bearing as *Canon 12* may have on the matter, it is the committee's opinion that any obligatory fee schedule must necessarily conflict with that independence of thought and action which is necessary to professional existence. The usefulness and capacity for service of the members of the profession must vary with their character, learning and experience, and to place the compensation of all of them on a labor union basis, irrespective of their ability or experience, would soon lessen the usefulness of the profession to the public."
ABA Opinion 28 (1930)

In a later opinion the committee dealt with minimum fee schedules, and held:

"If guides for the determination of the amount of the charge be required, they are supplied by *Canon 12*. The third touchstone therein referred to is 'The customary charges of the Bar for similar services.' Insofar as a minimum fee schedule reflects this, and only this, it is not to be condemned. But a binding obligation to adhere, regardless of circumstances, to a rate charge or published tariff of fees for legal services is contrary to the genius of the profession as well as to its best traditions. Hence, no lawyer should permit himself to be controlled by an obligatory minimum fee schedule nor should any bar association undertake to impose such restrictions upon him."
ABA Opinion 171 (1937)

The State Bar of Wisconsin in 1957 (Opinion No. 8) held that lawyers who habitually and notoriously offer to perform legal services for less than the fees set forth as a guide in a duly adopted fee schedule are engaged in a vicious form of 'solicitation' in violation of Canon 29 which states:

"Efforts, direct or indirect, in any way to encroach upon the business of other lawyers are unworthy of those who should be brethren at the bar."

It is the opinion of this committee that any lawyer who, in setting his fees, deliberately and habitually undercuts the customary charges of the Bar for similar services, the effect of which is to solicit business, and such fees cannot be justified under the guideposts outlined in Canon 12, is violating the Canons of Ethics. This would be true regardless of the existence of a minimum fee schedule.

Dated this 11th day of March, 1958.

COMMITTEE ON PROFESSIONAL ETHICS
Calvin Dworshak, Chairman
Paul G. Eimers
Merrill K. Cee

(Applause).

MR. SATTERFIELD: When you hear us going kind of strong the latter part of the afternoon, don't let it worry you too much. What you have just heard is known as a minister's aid; we recommend the Chairman of every Board of Stewards and Board of Deacons buy one of these alarm watches and give it to the minister to cut him off at the proper time. I demonstrate that as a practical illustration of the fact that we are going to quit on time, so if we seem to be going strong, don't worry, we are going to quit on time.

You all may have had the same experience I have, and that is in observing in your home town the comparable standard of living of lawyers, businessmen, doctors, and other professional men of approximate equal age, of equal time of experience in business or practice. It has been my observation in Mississippi that as of now the standard of living of lawyers and their ability to buy cars, and houses, and dress up the wives—the three standards by which your standard of living is now measured—were far below that of comparable businesses and professions. I didn't know whether we in Mississippi just didn't have any better sense than to know how to make a living or whether that was true all over the United States.

I also have heard and we have discussed situations with deans and members of the faculties of law schools, finding that young men and young women who should go into the legal profession are going into other businesses and professions. Luther Bang will bring you some supporting data to support that statement in a few minutes. Also, when you have heard Luther Bang I think you will reach the conclusion the committee has—that we have a dangerous situation in our profession, one which cannot be met by individual lawyers alone, that can only be met by the cooperation of individual lawyers within their own practice, of individual lawyers through the American Bar Association, the state associations, and the local associations.

And the problem is, if we assume, as we do, in view of the facts that Luther Bang will bring us in a few minutes—if we asume that the income of lawyers is below that which it should be, it necessarily resnlts that the fees charged by lawyers for services rendered are lower than that which they should be, and the solution is, of course, how can we remedy that situation by bringing an increase in the fees charged by lawyers throughout the various counties of each state, and throughout the states of the United States.

And one thing sure, it makes no diffcrence how efficient you may be, or I may be; it makes no difference how realistic the fees we attempt to charge may be related to the value of the services rendered, if John Brown and Bill Jones and Sam Smith across the way are charging lower fees and are good lawyers, pretty soon competition is going to put us out of business. That is the reason we are convinced, as Judge Smith has told you, we must have a cooperative effort by the

American Bar, the State Bar, and the local bar asociations, and the instrument we can use to aid in increasing the level of fees that we thus far have been able to find, from an association viewpoint, is by use of a so-called minimum fee schedule, and as has been pointed out by Judge Smith, it may be good or it may be bad. A minimum schedule that is a bare minimum compilation of charges theretofore made may hurt if it is allowed to remain at that level; if the cost of living and the value of legal services go up, it is a drag on the profession and is not a help. If it is simply a compilation of that which has been charged in the past, it will do very little good, perhaps, bnt if a committee is appointed, let us say by the State Bar Association, a permanent standing committee, and they obtain the information now, and which will be available within the next 90 days, it will be of help to them.

We have prepared a sampling of the 600 minimum fee schedules received from throughout the United States on some 25 bases of fees charged, arranged by states and areas, whereby we have found that there is a wholly inexplicable and inexcusable difference in the amount of fees charged for various items, and some of those will be brought to you by Luther Bang in a few minutes.

We have found on examination of some 13 state studies that have been made throughout the United States that there is an inexplicable and unreasonable difference in the fees charged in different counties within the different states. For instance, Lnther and I were in Texas at their bar meeting last week and spoke in behalf of the Commission. There were variations in Texas of from $75 to $250 in certain categories, from $100 to $350 in another category, and from $50 to $200 in others variations of from 300 to 400 percent, and doubtless you have that here in Idaho, I know we do in Mississippi, which is fully without reason, and without proper basis. Your state committee will obtain this sampling of minimum fees that we have arranged and obtained from this Commission.

We have obtained from the Probate Judges Association compilation by state of every state of executor-administrator fees, and an overall compilation and itemization of attorney's fees in probate matters throughout the United States.

Also available in the headquarters of the American Bar Association are copies of minimum fee schedules from comparable areas in the United States. There is some delay in getting them but they can be obtained. Now a state committee with that report cau set up a basis of a state survey, which does not have to be too dignified or too voluminous to see what is being charged throughout the state in various categories—if you haven't already done that in Idaho to see where you stand, then compare that with that in other states of comparable size and nature and type of business to see how Idaho compares to other states under comparable circumstances, and then set up a basis which can be utilized in the state.

In Mississippi we have never had a state-wide minimnn fee schedule. When I was President of the Mississippi State Bar in 1955 and 1956 we set this up as our main objective. We appointed one committee to make a survey of the fees charged throughout Mississippi and certain other faetors involved in the economics of law practice. We set up another committee to set up a basis of fee compensation in the state. Now we were scared—that is a good old Mississippi word—now we were seared to suggest a minimum fee schedule, we thought we would get the challenge beaten out of us, so we didn't even suggest it that way, but when we got Luther Bang and Paul Carrington down there, and when they got through with us, and the report of the committee which was presented as the suggested basis of fee compensation, there was a motion made from the floor, carried unanimously, that it be adopted as the minimum fee schedule of the State of Mississippi, with the provision that every local association had the right and was urged to vary that schedule as it saw fit to meet its local conditions, but was urged not to go below the minimum which was found to be a reasonable and proper minimum charge for the services rendered.

We set up an objective to increase the income of lawyers in the State of Mississippi 50 percent, plus the increase in the standard of the cost of living within a period of 5 years. That has been 3 years ago. We have inade some progress. We will find out next year how far we have been able to go. We have a standing committee, charged with the duty to report at every annual meeting of the bar, and increasing the level of the minimum fees in different eategories as they find them to be justified.

And if a schedule like that is adopted with a realistic relation to the true value of services on a minimum basis, with a standing committee to increase it from year to year as may be reasonably jnstified, and with the snggestions for enforcement which Judge Smith has brought to yon so clearly within the last few minutes, I believe there will be a basis of cooperative effort that ean bring fine results for our profession.

Now we have the problem of trying to find where we are at. Using good old Mississippi talk, I found more or less medium that we were in a hell of a shape. I got out my income tax report every spring. I saw how business firms from 2 to 7, as we finally graduated off, as we expanded and got broker—the bigger we got the broker we were, perhaps, but anyway I started watching the young fellows and the younger fellows who were coming and going to work for our firm, and that is what got me more or less medium convinced that we were in pretty bad shape. But until I got on this committee I didn't realize what shape our profession was in.

When Charlie Rhyne set up this committee he looked through the country, and he found there was a champion working in this field, and had been for many years. I believe he has spent more of his own personal time, at a personal sacrifice, to help the economic status of our profession than anybody in the United States. (Don't tell some of the other fellows I said that. I am sure I know he has done as much as anyone else.) He has been of wonderful help to a number of states in this area. This year he is President of the Minnesota State Bar Association. His name is Luther Bang; his speeches are in aceordance with his name. We will now hear from Luther Bang. (Applause).

MR. BANG: Justice Smith, Honorable Judges of the District Courts of the State of Idaho, President of the State Bar, Fellow Lawyers, Ladies and Gentlemen:

That introduction that Mr. Satterfield has just given me reminds me of a story I heard in Illinois a couple weeks ago about two contented cows. They were standing in a pasture ehewing their cuds and watching the cars go by and they saw a great big truck coming down the highway. As the truck passed they read on the side of it, "Pure Dairy Milk, Pasteurized, Homogenized, Sanitized, Vitaminized—Fit to Drink." One cow looked at the other and said, "It does make one feel terribly inadequate, doesn't it?"

We are not here, ladies and gentlemen, to tell you people how to run your business. There is only one man I've known in the State of Minnesota who has the guts to come out and tell other people how to run their business in other states, and that's our governor. I am sorry that Governor Smylie just left, be-

cause I was going to tell him that the speech which he received. Governor Freeman gave that in about 30 minutes—it may have taken two hours to read, but it reminds me of speeches printed in the Congressional Record—they are not to be read; they are just to be looked at. There are a lot of Republicans in the State of Minnesota who think that the Governor could give a speech in much less time. The subject of it would be: Ethics in Government. And there are a lot of Republicans in our state who don't think that Governor Freeman knows much about that subject.

The reason we are here is because we feel and we believe down in the bottoms of our hearts that the legal profession of America is in grave, grave danger. I will start out with one statistic, which to me is probably the most compelling that has come to our attention since we started in this work, and I have been in this work since 1951.

In the decade from 1930 to 1939 we had, in the law schools in the United States, 390,840 students. In the following decade we only had 294,100, a decrease of 96,740 in one decade. The number of students in law schools of America has reduced every year since that time. In 1949 we had 56,000 (I am giving you the round figures now), in 1957 it dropped to 41,000, a drop of almost 15,000.

In 1949 we had in America 13,344 young men and women admitted to the bar; by 1957 that had dropped to 9,450, a drop of 4,000. In 1949 there were 89 lawyers admitted in America for each million of our population. In 1956 and in 1957 that had dropped.

In the world in which we live, in which it is becoming more and more complex every day, more and more need for lawyers every day, more and more work for lawyers every day, the legal profession is going down, down, down, in numbers and economics.

We are in danger; we are practically bankrupt economically now, as I will show you in a few minutes. I won't give you my opinion. I will give you figures to show exactly what I mean. We are in danger of going broke intellectually, also, because the bright young men and women of this country are not going into the legal profession in the numbers that they once used to. They are not that stupid. They don't want to live like you and I are requiring ourselves to live.

I have a lawyer friend—I had a friend, he is dead now, he practiced law in Southwestern Minnesota, which is the rich corn-hog country of our state; he practiced law for 30 years, and he was a good lawyer—he was a darned good lawyer, he was in the county seat. He handled some good cases. But he and his competition required him to work for such niggardly sums of money that when he died about four years ago his widow didn't inherit more than about $15,000, including the equity in a mortgaged home. He put two children through college on borrowed money—he hadn't paid all of it back when he died, and there are thousands and thousands and thousands of lawyers in America who are living on that scale today. Maybe they are not in this audience, because they don't have the price to get here, but those are the lawyers that need our help. And if you men in this audience, and you women who are practicing law, if you are making $12,000, $15,000 and $20,000 a year, thank God for that, but remember that you are one of the few in America that are making that kind of money.

Now may we have a slide, please. Guess I'll have to do a little advertising. Minnesota, as you know, is 100 years old, and the Bar Association of our State

this year is 75 years old. This slide illustrates that prior to 1942 the average American lawyer made more than the average American doctor. Now those figures are net before taxes, and they are the income of those engaged in the private practice of their profession. These are not salaried people. These are men and women who are engaged in the professions there shown in private practice and those figures are net before taxes.

Now you see in 1942 for the first time the average American doctor's income was higher than that of the average American lawyer. And you look down to 1951, the average American doctor had gone to pretty near $13,000, while the average American lawyer was tagging along at a little less than $9,000. Well, now you might say: "That is the average for the country, that doesn't apply to my state; it doesn't apply to Idaho or Oregon." Let's take a tour throughout the country real quickly and see what happens state by state by state.

Now that is in the East. This is in 1951. The reason I give you these figures is because since 1951 there have been no national surveys made of all three professions. These figures are from the United States Department of Commerce. The lay wages and salaries—those are the average incomes of all of the inhabitants of each state shown—men, women and children and unemployed.

Take, for example, in Massachusetts the average per capita income for every man, woman and child in the state in 1951 was $1,970; the average dentist made $6,492; the average doctor made $10,910; the average lawyer made $7,600.

Now you run down quickly, state by state, and just analyze the situation for yourselves.

Look at Virginia, the average doctor in that state in 1951 made $14,623; the average lawyer made $5,895. There were states lower than that. The four low ones were: Oklahoma, Kentucky, Iowa and Minnesota. Iowa was the poorest state in the entire United States—one of the richest states in the union.

There is my state of Minnesota. In 1951 our average doctor made $15,767; the average lawyer made $5,826. We were fourth from the bottom. The only ones that were below us were: Iowa, Oklahoma, and Kentucky.

There were those in Minnesota, who, without knowing these figures, sensed that something was radically wrong, and in 1951 the president of our state bar set up an economics committee, of which I was named chairman. We made our first survey in 1952. We adopted a state-wide fee schedule in 1952. Let me tell you what it did for the Minnesota lawyer. By 1954 we were 17th from the bottom instead of 4th, and the average income of the Minnesota lawyer had increased from $5,628 to over $9,600 in four years. That was just by going out and preaching the gospel. We didn't rob anybody either. All we had to do was educate the dumb clucks they had to do business on a cost basis. They had to recognize what it cost them to operate. I have in my files in my office copies of annual accounts of guardianships where the children had estates from $8,000 and up, and the lawyer made the annual account out for $2.50.

We had one county in Minnesota where the lawyers prided themselves in handling adoptions for nothing. How stupid can you get? You have the same situation in this state I will venture to say, and certainly will prove it. You have in this state, as they have in Texas, and they showed us last week, areas in which deeds were being drawn for $3, and others where they charged $15.

In Minnesota we had counties where they had probated estates in 1951 and the

average fee was less than one-half of one percent of the inventory value of the estate, and we have other counties where the fees were as high as 5 percent of the inventory value. That is not good business and it is very poor public relations, and we are going to commit suicide if we don't stop it. We should not be afraid to discuss our fees with the public in the light of our costs. I am not contending—I am not suggesting we gouge anybody. All I want us to do is to wake up and operate our law business as a business. And don't give me this guff that we are a profession and we shouldn't talk about money, and we shouldn't talk about business. It is too late for that now. We are in business whether we like it or not.

We came into this beautiful place last night and my wife said, "Daddy, did you notice that all the cars are from Maryland?" I said, "Maryland, Hell! They are having a medical convention here. That M.D. on those cars means medical, not Maryland." So you fellows had to sleep in the basement last night until the doctors moved out so you could get a bedroom, didn't you? People don't respect us when we are poor, now don't you kid yourself, and a client doesn't respect you when he senses that you are doing work for him—he knows that you are doing it—at less than cost in some cases. You are not doing it because you want to. You are doing it because it is your custom—your competitor across the street is requiring you to do it, because you and he don't sit down and talk as brother to brother, as man to man, and tell each other your troubles, and trust each other, and confide in each other, and say, "Now, listen Joe, I have got to have $10 for making a deed because I know I can't do them any more for $3." Let's be white about it.

State by state the story is the same—doctors $10,000; lawyers $6,300, and so on. Now we are coming up to your part of the country. We have no figures for your state because the lawyers in your state did not send in enough answers to the questionnaires to give the United States Department of Commerce a meaningful report. Maybe you had something to hide—I don't know.

From 1935 to 1939 we had a period of comparative tranquility economically, and the average dentist in that period made $2,812; the average doctor made $4,100; the average lawyer made $4,363. The lawyers were ahead—top men.

In 1951 the dentists had gone up to $7,700, almost three times as much; the doctor had gone up to $12,798, over three times as much; the lawyer had gone up from $4,300 to $8,900, two times as much. But in Minnesota we had only gone up from $4,300 to $5,800, an increase of 33 per cent.

The American Medical Association operates very intelligently. They have, in Chicago, an economic department set up, a doctor of philosophy at the head of it, and a very fine staff, and I venture to say any doctor in this state can tell practically from quarter to quarter a change in costs of doing business.

In our committee report Mr. Satterfield is recommending to the American Bar in Los Angeles in August that the American Bar must set up such a bureau—an economic bureau for the American lawyer, and we hope it will happen soon. It will be some years before it can be done, but we are looking forward to that time.

In Minnesota we made a survey of salaries paid under Civil Service and we developed some interesting figures.

Lawyer No. 1 is a graduate of the law school, he is admitted to the Bar, he is the fourth down there, and his salary in Minnesota in 1953 was from $282 to $322 per month. Now you drop down a ways and you see the automotive field mechanic got the same and the carpenters got the same. I have another slide

which this morning some way or another got loose in my case and I broke it taking it out so I can't show you those figures, but that slide carried out the same idea. In addition to these two, we had carpenters, lathers, plumbers and seed wheat inspectors. They got the same as the lawyer in Minnesota.

I appeared before the Civil Service in Minnesota, and I was insulted—they sneered at me. Why should we raise the salaries of lawyers in Minnesota under Civil Service? Mr. Bang, what does your average Minnesota lawyer make engaged in the private practice of law? And I had to admit that in 1951 he had only made $5,600.

In the Middle East we have Maryland, New Jersey, New York, and Pennsylvania, and the per capita income there per individual and the population is shown in your first column. Your next column is your lawyers per 100,000 population, and these figures are to show that there is no relationship apparently between the number of lawyers in a state, and the income of the lawyers in that state. We always thought that there was but there isn't. Take in Pennsylvania where there are only 80 lawyers per 100,000 population, the average lawyer there made $11,896 in 1954.

In New York we had 222 lawyers per 100,000 population and the income was about the same, $11,755. The median figures, the ones to the far right, are the ones I want you to notice particularly as we go through this series of slides. The figures in the second column from the right are the average figures. The average is obtained by adding the total income of the entire group in the state and dividing by the number in the group. The median is more meaningful. That is the one to the right. The median is that figure below which one-half of the lawyers in the state fall income-wise, and above which the other half fall. So, in Maryland, one-half of the lawyers in Maryland made less than $8,250, net before taxes, in 1954, and one-half made more.

In 1954 one-half of the lawyers in Iowa made less than $6,278.

In Wisconsin one-half made less than $6,750.

Now the gravity of that situation will come to you much more forcefully when I show you later on that 65 per cent of the lawyers in America are engaged in one-man law offices and their incomes are—well, I won't name them, they are just too bad.

There again, state by state, Colorado, one-half of the lawyers in Colorado earn less than $7,375; in fact, one-half of the lawyers in the Northwest earned less than $6,750 before taxes in 1954. You see why your sons and daughters are going to hesitate about going to law school, or about practicing law if they do go to law school?

My son is an engineer with North American Aircraft. He is 32 years old, and I think he makes about twice as much as I do.

Oregon, Washington, Oklahoma—Oklahoma has come up, they were one of the bottom four in 1951. That is a sorry picture, isn't it, that figure to the right—remember that half of the lawyers in that state made less than those figures which are shown. There isn't much promise for security of the family for the future, is there?

Lawyers who had practiced law for less than five years in 1954 made up 9.3 per cent of our profession. Half of them made less than $3,359. That is the figure

to the right. The next line, 18.3 per cent, that is the second column, 18.3 per cent of our lawyers in America had practiced law from five to nine years in 1954; half of them made less than $6,730. In 1951, 9.1 per cent of our lawyers in America had practiced law from 10 to 14 years; half of them made less thau $8,194. You see why we are worried; you see why we are concerned about the future of our profession? You see why we can tell you that as individuals you are going to die economically, that you have got to get together on a local level—on a village and city level, on a county level, on a state level, and on the American level, so that we can raise the standard of our profession?

Again I say to you men and women who are here who are well set; you have nothing to worry about, but worry about your brother lawyer, and worry about the future of your profession.

Let it not be said, as I have heard it said, that there are only two ways for a lawyer to get rich: One is to marry a rich widow; the other is to practice law to beat hell for 25 years and then marry a rich widow.

It has been said that lawyers in small towns can be just as fat and live just as well as lawyers in large cities because their overhead is less. These figures seem to indicate that that is not true. The larger the city, and let us assume the higher the overhead, then why is it the higher the income of the lawyer, and that is uniformly true. In villages under 1,000 population in America in 1954, 2.3 per cent of our profession were in little towns, half of them made less than $4,300, net before taxes, in 1954; in towns of 1,000 to 2,399 we find 6.6 per cent of our profession. Half of them made less than $4,206, net before taxes, in 1954, and so on.

You get to the cities of a million or more; they contain 17.8 per cent of our profession and half of them made less than $8,455. They averaged $12,856, net before taxes, per lawyer.

This is the reason why there is such utter chaos in the legal profession economically. These are the states in which the state legislatures have passed bills setting fees in probate, and remember now that legislatures are largely composed of lawyers almost everywhere.

A $40,000 estate in Arizona, the legislature says the lawyer may charge $1,720, but in Iowa the legislature says he can only charge $920 for the same job.

We found in Minnesota, as I told you, that the fees varied from county to county, from one-half of one per cent and less, up to five per cent, and I mean for every estate probated in the year 1951.

These are the states in which the bar associations have adopted fee schedules in probate, and we find there that in a $40,000 estate the Iowa and the Colorado lawyer said that he must have $2,400, whereas the lawyers in my state, they say, "We can get just as rich by charging $950 for the same job." Now that doesn't make economic sense—it doesn't make business sense, and it is phony, it's spurious, and the public is getting wise to it.

We have those same variations within our state; you have them within your state, I venture to say, and I certainly will prove it to you.

I asked a hypothetical question of the lawyers in Missouri at the meeting of the state bar, and I said, "Now don't set the fee for what you would charge, set the fee for this job that the lawyer should charge for the work." I then described

the lawyer as 37 years old, and gave his qualifications. There were 157 lawyers who answered the questionnaire and the fee they thought this lawyer should charge, and as you will note, it varied from less than $250 to over $750 for the same identical job. Now those men simply didn't know their business. They didn't know how to evaluate services. And that is one of our troubles. We have to learn how to evaluate services based upon the cost of doing business, and that is what Judge Smith was talking about, and what John Satterfield was talking about when they talked about a standing committee to keep you informed from day to day as to changing costs and changing this and changing that.

In 1947 the gross income of the average American lawyer was $11,498, and in 1954 it was $16,719, or an increase of 45 per cent. The payroll increase from 1947 to 1954 went from $1,800 to $2,786, or an increase of 52 per cent. Other overhead—rent and other overhead increased from $2,200 to $3,600, or an increase of 65 per cent. The overhead increased from 35 per cent from 1947 to 38.7 per cent in 1954—this is the average American lawyer. The net income increased, that is the average net, from $7,400 to $10,258, and the median from $4,100 to $7,300. So, as you can see, the average income increased only 38 per cent, whereas the overhead increased as follows: Payroll, 52 per cent; rent and other, 65 per cent. We have not kept up with our increased costs in any part of the United States.

This is to show the increase from 1945 to 1953 of the workers shown. The percentage is in the right column—you see they went up 305, 294, 248, 312 per cent and so on.

Remember the lawyer's income in that same period of time increased 205 per cent.

These are union dues. I think there is a relationship between the union dues and the dues you pay to your association and what your association can do for you. We know that the bricklayers and the laborers all over America have done quite well, the unions have helped them and have done this for them.

In Minnesota in the medical association the doctors pay $80 a year dues, plus $40 for membership in the American Medical Association, or $120 a year for each doctor. Remember what the doctors made in Minnesota in 1951? Three times as much as the average Minnesota lawyer. Remember that? In Minnesota the state bar association dues were $30 a year in 1953. We tried to get them raised at that time to $35. The lawyers in Hennepin County, that is where Minneapolis is located, and there are approximately 1,500 lawyers in Hennipen County, they threatened to secede from the state bar association if we raised the dues to $35. That is the way we support ourselves. We can't do that, fellows, we have got to kick in money into the poke in order to get results. Given more money to work with, your association can do so, so much work for you.

It wasn't until this year that the American Bar Association had an economics committee. Imagine that—not until this year. And now is the first time we have enough money to operate on. Why? Because Smythe Gambrell two years ago put on this tremendous American Bar membership drive. I'll show you the figures in just a moment, and show you what that did for us on the national level.

These are earnings of the tradesmen in Hennepin County in 1953. Remember at that time the Minnesota lawyer made about $6,500 to $7,000. He was making just a little bit more than the stonecutters and the boilermakers and the bricklayers.

I hope you'll never forget these figures; I hope they will stick in yonr mind

as long as you live, and that you will do something about it when you get home. Talk to your fellow lawyers. Get operating on a business-like basis—those of you who may not be doing so now.

These are the figures on the memberships. The American Medical Association in 1955 had a potential of 180,000; they had an actual membership of 150,000. Eighty-two per cent of their doctors were in the American Medical Association. They had an income of $9,000,000. Three million and a half came from dues and the other came from the American Medical Journal and other sources.

Look at the dentists and the optometrists and the osteopaths—look at their incomes, $2,000,000, $1,000,000, $300,000.

The American Bar Association in 1955 had a potential of 220,000, and a membership of 53,000, and we had an income of only $666,000 for the American Bar Association. No wonder the Bar Association couldn't do much for you.

Then Smythe Gambrell had his campaign. Now drop down to 1956 and 1957. Our potential is up to 248,000 and the membership to 88,000 and our income up to $1,384,000. Then Charlie Rhyne, God bless him, you will have an opportunity to applaud him tomorrow; he appointed this economics committee and we are going to work now to help—as John Satterfield said, the lawyer who practices in a one-man, two-man, and a three-man law office. He is the man who needs help. The lawyer partners in large firms are very, very well off, as I will show you in a moment.

In America in 1954, 65 per cent of the lawyers in America were in one-man offices. Half of them made less than $5,485. Get that figure—remember that one, will you? Sixty-five per cent of the lawyers in America were in one-man law offices and half of them made less than $5,485, net before taxes. Let it sink in. Thirty-two and one-half per cent of the lawyers in America in 1954 made less than $5,485. I don't know whether to laugh or to cry, do you? That's tragedy. It's a disgrace. And we have nothing to offer the young men and women of America who would like to be the leaders of freedom tomorrow. Not by those tokens we don't.

In 1954, 17.9 per cent were in two-man law offices. Half of them made less than $9,022.

Now let's get down to the nine or more. Nine or more partners in law firms in America in 1954 made up 2.2 per cent of our profession. They averaged $36,102 apiece, net before taxes. I am not talking about the associates—the salaried men, I am talking about the law office partners, and their median was $27,159.

One of the troubles has been in the past that the leaders of the American Bar Association, and the leaders of your state bar associations largely have been men, I think, from large law offices. And they have not realized—they were unaware of the terrible situation which existed in our profession among those lawyers who practice law in one-man and two-man law offices. Now we are about to do something about it, but we can't do it alone. We can pass bills, we can write fee schedules, we can do anything in the world, we can come here and talk to you at great expense to you and ourselves, and it won't help you one bit unless you help yourselves. You have got to get together and lift yourselves unitedly by your own bootstraps. We hope you do that.

We appreciate the opportunity of being here, we have enjoyed your hospitality,

and I understand we are going to continue to enjoy it some more commencing this evening. Thank you. (Applause).

MR. SATTERFIELD: I believe we will all agree that from the facts Luther Bang has brought to us we have a situation which must be corrected.

Our profession is one which is a profession of service. The success of the legal profession is measured by the service we render to our country, to our state, and to our community. We should never, under any circumstances, permit the amount of dollars, or the making of money to interfere with the ethics of our profession, or to prevent us from maintaining those standards which we have been able to hold so high throughout the years.

On the other hand, there is nothing inconsistent with a business-like approach to the practice of law, on an individual and organized effort, to see that the charges are realistic for the services rendered. In this type of effort, we should never charge our clients more than our services are worth. That would be improper and unethical and would be cheating the public. However, the fees now charged and the income now received by us through fees throughout the United States and in this and other states is lower than such income should be, and we are certainly justified in taking steps to do something about it. In order to do that we must arrive at two things, you and I. The individual practitioner and those of you practicing in partnerships must charge fees which are commensurate with and reasonably related to our services rendered. We must calculate our own fees and charge our own fees upon a realistic basis. In addition to that mentioned a moment ago, we must also, as a profession, and as bars throughout the United States see that the whole level of fees is also realistically set up, and the American Bar Association is setting up now a program which we hope will do that.

We should take a few minutes to discuss our costs and what we can do ourselves in our own profession to decrease the cost of doing business and to increase the gross income, as the result of which it would increase our net income to a proper level.

Philip S. Habermann of Wisconsin is a former chairman of the National Conference of Bar Secretaries. He has served as Executive Secretary of the Wisconsin Bar Association and is presently the Executive Director of the State Bar of that state. He is one of the finest bar workers in the United States and one of the finest members of the American Bar Association, and he will now bring you some suggestions with reference to the facts of the cost of operating your own law office. (Applause).

MR. HABERMANN: The fact that there are so many of you in here this afternoon in face of the competition of that wonderful golf course outside is proof that even in Idaho the lawyers aren't making what they consider an adequate income. The cost of living is up, and it keeps going up. The same is true for the cost of practicing law. If you want proof that living costs are up, just go grocery shopping for your wife this weekend. If you want proof that your law office costs are up an equal amount, dig into your files and pull out the business schedule from your income tax return of five or ten years ago, and compare it with your 1957 return. You simply won't believe what it shows.

I could quote figures and statistics on the subject of lawyers' income, but they all remind me of something I read the other day about fat people. This doctor

was seoffing the scientific tests and charts made to determine if a person is obese. "The simplest way to learn that," he said, "is to stand in front of a mirror. If you LOOK fat—you ARE fat!" The same thing is true with your financial status. Just stand back and take a long, hard look at your bank account, your pocketbook and your whole financial situation. It will be pretty apparent whether you have money or don't.

Now a lawyer may increase his income in three ways:

(1) He can increase his practice;

(2) He can charge more adequate fees;

(3) He can increase the efficiency of his office.

Of course, back in my state the lawyers who really have money either inherited it or married it, but for our purpose here today I am going to talk about efficiency, particularly how the use of modern machines and devices can increase the efficiency of the lawyer and his office. Perhaps a better title for this talk should be, "How to practice law without going broke."

We are all concerned with the question of what lawyers do, and why it takes so much time to do it. There are three phases to this problem of efficiency in the practice of law:

(1) Efficiency of YOU, the lawyer, in the way you work;

(2) Efficiency of the SYSTEM or organization of your office;

(3) Efficiency of your PHYSICAL OFFICE AND EQUIPMENT.

To narrow the scope of this talk, I will confine it to efficiency of the physical office and equipment.

Increased efficiency can't always be measured in minutes and hours saved, but these savings translate into increased output and time chargeable to clients. If a lawyer increases the total efficiency of his office by 25 per cent, the result in terms of net income should be at least one-third increase. This is because a one per cent increase in efficiency will produce more than a one per cent increase in net income, since overhead costs are relatively stable. If you assume a 40-60 ratio between overhead and net income, then a one per cent increase in law office efficiency should net an extra $150 for the average lawyer in a year.

Of course, all that I suggest cannot be applied to every lawyer and every law office, particularly to the young lawyer just getting started. I am talking about the established lawyer who has enough practice to keep him busy, and not the young lawyer who has to sit in his office waiting for a client. Obviously, dictating equipment, electric typewriters, and the like won't help him much, especially if he doesn't even have a stenographer.

So far as the physical furniture and furnishing of an office are concerned, within the limitations of the budget and dependent upon personal taste, improvements are limited largely to the purchase and arrangement of items such as desks, chairs, tables, lamps, files, bookshelves, waiting room furniture, rugs, drapes, pictures, and so forth, as space requires. Items for comfort, such as water coolers, air conditioning equipment, fans and the like are equally important.

Whether a lawyer is planning a new office or refurbishing an old one, a good deal of advance planning and consultation with specialists in interior decoration and office furniture will pay big dividends.

The really important working tools in the lawyer's office, outside of his library, are the items of office equipment. This includes items such as typewriters, manual or electric; copying equipment; electronic dictation equipment; adding machine; postage meter; tape recorder; check protector, mimeograph or other duplicator; telephone answering device; postage scale; calculator, and the like.

At this point we should look briefly at automation. Automation is a word that has come along in recent years. It pertains to those machines and devices, largely of an electronic nature, which automatically perform routine functions, usually with a considerable saving of personnel. Unfortunately, except for the simple electric machines, automation is simply not at this time adapted to the law office.

The electronic integrated office system, bookkeeping and billing machines, and electronic computors such as UNIVAC, made and sold by firms such as Burroughs, Remington-Rand and IBM, are designed for large commercial and industrial applications and are not useful in a law office.

Because of the highly personal nature of the law practice, it is unlikely that much mechanization or automation will be practicable or economical in a law office in the near future. There is simply no machine available into which you can dictate and have it produce a transcribed letter. Neither is there any machine which will do your legal research, your brief writing, or your thinking. Consequently, you must look for major improvements in your office efficiency in the fields of system and organization. This assumes that the lawyer has in his office the basic items of office equipment mentioned above.

Of all the recent improvements in office equipment, three items already widely used by lawyers have been most useful in increasing office efficiency. These are electric typewriters, copying equipment and dictating machines.

There may be a few law offices that still do not have any electric typewriters, but probably a third or more of the law offices have at least one electric typewriter.

Electric typewriters offer numerous advantages. They are faster, less fatiguing, and do more uniform work. For cutting carbon copies or stencils they do a superior job. When equipped with carbon ribbon attachments they greatly improve the appearance of finished work. Office managers indicate that the net production of a typist using an electric typewriter is substantially greater than one using a manual machine. Typing time costs money. If electric machines turn out more material, they reduce your overhead. That is money in your pocket.

There is also a certain prestige factor in having electric typewriters in the office. The clients are impressed, for the quality of the work is obvious. The secretary is likewise pleased, because of the inherent advantages of the electric machine. While approximately double the cost, the increased efficiency they bring is an item worth considering.

Larger law offices, particularly those in which numerous copies of similar letters are written, can profitably install an automatic typewriter. This equipment utilizes a regular electric typewriter, and will automatically type the body of identical letters after the stenographer types the name, address and salutation. In cases where the volume of duplicate letters does not warrant the purchase of the equipment, commercial firms are prepared to produce such letters at a reasonable price.

The most useful machine to appear in the law office since World War II is the copying machine. Very rapid improvements have been made in this equipment, and undoubtedly it will be further improved as time goes on. When one considers the many uses that such equipment has and the great economy in time saved in copying and proof-reading materials, it is difficult to understand how any law office can operate without some sort of copying equipment.

There are now available excellent, low-cost units using one of several processes of copying. Because each copying process differs from all others, there is much room for analysis of what you are going to expect the equipment to do before you purchase it. Of the machines available for law office use, those most generally used are either of the wet or two-stage process, or of the dry, single-stage process. Each type has its advantages and disadvantages.

Two commonly used types of equipment are Thermo-Fax, the dry process manufactured by the Minnesota Mining and Manufacturing Company, and Verifax, the wet process manufactured by the Eastman Kodak Company. Under the Thermo-Fax process the image is reproduced by a thermal reaction without the use of liquid in a single process on a completely dry paper at a cost of from 5 to 6 cents per sheet. The process is ideally suited for certain uses, particularly where single copies are desired in a hurry, but it has the fault of not being able to reproduce all colored inks and some printed materials printed in color. The Verifax process will produce single copies for 10 to 12 cents, in a two-stage process, with 4 or 5 extra copies costing only a fraction of a penny each. Its greatest drawback is that a fluid developer is required, making it somewhat more difficult to operate and service. It will reproduce colored inks.

Another new photocopy machine has recently come on the market, (Apeco Uni-Matic, American Photocopy Equipment), which, while a fluid process machine, in a single operation will copy all colors at a cost of slightly over eight cents per sheet.

You must study your needs carefully and weigh the respective advantages, disadvantages and costs against the type of use that you wish to make of the equipment. Because no one machine will do all jobs well, some large law offices have now installed both wet and dry types of equipment.

One very convenient use of copying equipment is in the preparation of trial briefs and memoranda for presentation to the court. This requires copying equipment which will permit the reproduction of pages from bound books. In preparing trial briefs or furnishing copies of citations to the court, it is very effective and a great time saver to include copies of the original cases or portions cited rather than to abstract them or copying them in typewritten form. The resulting exact copy is much more impressive and more readable.

Several types of copying equipment, such as models of Thermo-Fax, Verifax and Contoura, will copy pages of bound volumes without injuring the binding. This is particularly helpful in copying cases in the law library for further use in the office in brief writing or for other purposes. The lawyer should carefully evaluate his need for this type of equipment before purchasing.

While most copying equipment is not readily portable because of size or weight, one manufacturer (Contoura) has a copying device specifically designed for portability and also for copying from bound volumes. This is especially useful

to the legal researcher, or for copying court records and library materials which cannot be removed to the law offices.

If the office does a volume of tax return preparation, investigate the use of copying equipment to prepare the duplicate tax returns. There are now available pre-printed master sheets on a translucent paper on which the original return can be filled in, either with pen, pencil or on the typewriter. The duplicate copies can be made very inexpensively with a copying process. Great economies can be made in typing time, particularly since several concerns are now making a complete system of these master sheets available to law offices. If you can effect a savings of from 25 to 50 per cent on the typing time on tax returns, you can turn what may be a money-losing portion of your practice into a money-maker.

If you figure that one hour of your stenographer's time costs you $2.50, and on a net productive basis I am sure that it will, then a savings of one hour a day in copying and proof-reading will mean a saving of $652 a year. Remember, a small copying job, including the proof-reading time, will take an hour of your stenographer's time. On a copying machine you can do it in less than a minute. Isn't this a most worthwhile savings to shoot for? Thus the investment of from $100 to $400 in a single piece of equipment which should last for at least seven or eight years may enable you to increase your office output and your net income by a significant amount.

Almost every law office has occasion to reproduce a number of copies of some exhibit, letter, memorandum, or brief. The equipment commonly used is mimeograph, hectograph, or offset. Again, the equipment is available to do almost any sort of job, and the cost is from less than $100 to nearly $3,000. Analyze your needs and determine for yourself whether or not you can make efficient use of duplicating equipment, and which process best fits your needs.

One of the most useful and also one of the most controversial pieces of office equipment is the dictating machine. It symbolizes both office mechanization and the resistance to mechanization.

Some lawyers swear by dictating machines; others swear at them. Some lawyers say that the machine is the equivalent of one-half a secretary; other lawyers say they cannot work with dictating equipment with any success whatsoever.

The advantages of the modern electronic dictating machines are many. It eliminates one of the very obvious duplications of effort in the office, that is, when the lawyer is dictating to his secretary she must write it in her book and write it again on the typewriter, and be present in the lawyer's office away from her typewriter all of the time he is dictating or talking on the phone.

The dictating machine enables the lawyer to work at night or weekends, either at the office or away from it, and while the office personnel is otherwise busy. When he is dictating material that must be carefully thought out or gleaned from various sources over a long period of time, the machine is always ready without wasting a stenographer's time. It enables him to turn over some of the dictated material to other secretaries for transcription, thereby distributing the work load among the typing staff. This is important in the large office, where a transcribing pool can be set up.

As for a supply of competent stenographers, we are in a period of famine. That points out another use of dictating equipment. There are many competent ex-legal steno's who have a typewriter in their home. They won't work in an

office even part-time, but they will transcribe dictation in their homes—and do a good job of it, as needed. This can be a life-saver when you are in a jam at the office. Keep it in mind for an emergency.

Several excellent small portable dictating machines are now available. These can be carried with a shoulder strap or as a small piece of hand luggage. Some are battery equipped and others can be plugged into the power supply in an automobile, train or plane. They enable the lawyer to dictate enroute, or at the scene of an accident, in court, or elsewhere away from his office. Generally the fidelity is good, although not of the quality of the larger nonportable equipment. The cost of the portable units is very reasonable.

Despite these advantages, there are some offsetting disadvantages. Foremost is the personal element. Some lawyers believe there is something undignified and inefficient about dictating to a machine. Maybe it is a matter of pride. Where there is real teamwork between a lawyer and his secretary, she can save him considerable time in personalized attention, by taking instructions, and following routine procedures with which she is acquainted and which need not be dictated. For example, a lawyer may rely on his secretary to remind him during dictation of certain details, or be responsible for looking up the address or certain information in the material. Some lawyers believe this is more easily handled on a personal basis, by dictating to a stenographer, and cannot be handled as well with machine dictation. But remember—you still have your secretary available even if you use dictating equipment.

In cases those of you who do not now use machine dictation equipment have any false ideas about what is available, let me urge you to try one of the modern electric machines which record on either a magnetic or plastic disk or belt. They are vastly improved over the old machine with the gramaphone-type cylinder and the fidelity will surprise you, as will the convenience of the operating controls.

Most law offices needs will be better met by a separate dictating machine and transcription unit. Occasionally a small office may be able to use a combination machine. In large offices it is possible to have a central recording machine with a telephone-type dictating device in the individual lawyer's office.

Despite the old saying, it is possible to teach old dogs new tricks. That applies to lawyers learning to use dictating equipment. You may have to learn better dictating habits, and reorganize your office procedure, but you will find that electric dictating equipment is particularly adapted to the rather specialized needs of the lawyer. In many instances you can work far more efficiently through the use of such equipment. If you do not use it, and have not tried it recently, I urge you to reconsider it at an early date. If the installation of equipment, which will cost from $175 to $700 or upward depending on the number of units, will save the cost of an extra secretary, or even one-half the cost, the equipment will pay for itself in short order, and thereby net you substantial income. Of course, unless you are willing to USE the equipment, it won't do any good to buy it and let it rust away.

Here is an idea that many efficient lawyers use. If in your type of practice you dictate a great many letters of a similar nature, work out a manual or notebook containing various sample letters, or paragraphs from letters and documents that you write regularly. Then when you dictate, you do not re-dictate every time you use these standard letters or paragraphs. Merely dictate the individualized portions, and refer to the others to be incorporated by paragraph number and form number. This will save a great deal of time.

Tax return preparation, probate work, and office bookkeeping make it imperative that even the one-man office have an adding machine. Many small and fool-proof machines are on the market, either manual or electric. Choose one to fit your needs, having a tape, and with sufficient columns to handle the work you do.

A lawyer's work must be accurate, and you can ill afford to do without the convenience and accuracy of an adding machine. Furthermore, your clients are entitled to the protection of such equipment. Some lawyers make it a point to have small adding machines in their individual offices so that totals can be run up during a conference or while the lawyer is working at his desk. The small cost of this great convenience will oftentimes improve the lawyer's efficiency.

If the law office does a considerable volume of tax return preparation you should consider having a small calculator available. These calculators will add and subtract without making a tape, and will also multiply and divide very speedily.

Many lawyers find that the small cost of a portable recording machine, usually of the tape recorder type, is a good investment. A very satisfactory portable tape recorder can be purchased for under $200. It can be used to record conferences, to take statements, or to record depositions, and other proceedings. Do not attempt to use a tape recorder as a substitute for dictation equipment. While it is possible to transcribe the material recorded on the tape, the equipment is not designed for the stop and start usage required in transcribing office dictation.

It is frequently difficult to obtain a competent court reporter on short notice. It is also very expensive. Frequently there are long delays before the transcript can be typed. Even though a transcript is made, it is convenient to have your own tape recording of the session, because then you can go back to your office and immediately replay any portion of the recorded hearing. This may enable you to prepare briefs or other documents immediately without waiting for the transcript to be typed. Sometimes it eliminates the necessity of ever having the reporter transcribe his notes.

Many law offices find it both economical and convenient to install a postage metering machine. These are devices to print the postage directly onto envelopes or onto gummed labels which can be attached to packages and envelopes or other mail.

The postage meters are available through several mannfacturers under very strict government regulations. Some of the machines are small hand-operated ones. Others are large machines that will seal envelopes automatically. The machines are purchased by the office, but the meter is always obtained on a rental basis.

An operation works this way: The meter may be set only at a post office. The meter and a check for advance postage is taken there; the meter is unlocked and the proper amount of postage set into it. The meter is then sealed and returned to the law office. As the meter prints postage, it is automatically subtracted from the amount set in the machine.

The principal advantage of a postage meter, particularly one which also seals the envelopes, is its speed and convenience. It no longer is necessary to maintain a stamp drawer, since postage of any amount can be affixed by the machine. This solves the problem of never having the right denominations of stamps and

enables the office to purchase the postage in large amounts without having valuable stamps in the office. It also removes the temptation to "borrow" postage from the stamp box for personal use.

The maintenance of proper files and records has particular importance in a law office. Because of the responsibility to your clients, the lawyer has a special duty to maintain proper files. A good deal of information that passes through the office must be kept for long periods of time, and so filed and indexed as to be immediately available. In addition, there are the active files which are referred to from day to day pending disposition of the cases.

Thus you must have two basic types of filing equipment—that for the temporary, working files, and that for the inactive or dead files, which nevertheless must be retained almost indefinitely.

Filing equipment itself is costly, but more important it occupies floor space, which in modern law offices is very costly. There have been many changes made in recent years in filing equipment mostly directed at the obvious economy of reducing the floor space required. This has been done by streamlining the files and making them in five or six drawer height instead of the traditional four-drawer file. One innovation is shelf-filing which in certain circumstances has some advantages, but is not generally adapted to law office filing. In shelf filing, the file holders are arranged on open shelves designed for that purpose. These shelves may have doors. It does have the advantage of compactness and relative low cost, but probably is best adapted to large commercial operations.

Equally important to the filing equipment, and perhaps more so, is a system of filing and indexing to enable you to quickly find in the files the folder and documents you need. Since this leaflet is devoted to equipment and not to systems, it does not deal with that subject.

It should be emphasized, however, that this is perhaps the heart of the entire office system, and a good deal of attention must be given to installing in your law office a filing system that is designed to produce the results you need. A great deal is available on law office filing systems in such studies as Arch Cantrall has made, or in books such as the one by McCarty on Law Office Management.

Whenever you start a new filing system or reorganize an old one, be sure that the system is one that permits growth and will not have to be changed as your practice expands and you take on associates. And in connection with this, why not try to get away, as far as you can, from using legal size documents and legal size filing equipment? This is largely a practice that lawyers have inherited and it costs dearly in extra storage space, higher file costs, and the like. For 99 per cent of your regular correspondence and law work, the standard 8½ by 11 inch paper and files will do. Let's participate in the general business trend away from the old "legal size" documents that were used 200 years ago when documents were folded for storage in pigeon-hole type compartments.

Your secretary's time represents a substantial overhead. If your office filing system can be improved to save her even fifteen minutes a day, that is just that much more productive time available for the real work of the office.

One problem becoming more troublesome each year is the storage of dead files. With the cost of office space running from $2.50 to $5.00 or more a square foot per year, it is uneconomical to have many square feet of office space occupied by files full of records and papers on matters that are closed and seldom used.

Many offices have a policy of never throwing away any files. Others retain them for a reasonable number of years, and then dispose of them or cut them down and preserve only the most important papers. They may or may not remove them to less expensive storage space in the building or elsewhere. None of these practices are entirely satisfactory.

Almost every city has some agency which will for a reasonable charge microfilm records of this type. The process consists of taking a picture of each page or document to be recorded, and photographing thousands of these negatives on a single reel. The process is extremely fast and exact copies of the filmed material can be reprinted or the films can be read through a viewer.

At a very reasonable cost any law office can buy a microfilm reader and have the older records microfilmed. The savings in space is very great, since one roll of 16 mm. film, about 4 inches in diameter, can usually accommodate material equivalent to that stored in two conventional file drawers. With proper indexing, any of the recorded material can be located in a matter of minutes. The use of microfilm has the further advantage that duplicate films can be inexpensively made and stored at some distance from the office, such as in a bank vault or other place of security, to guard against destruction of the original film which is maintained in the office.

If it is not feasible or necessary to microfilm your old records, at least take a close look at what it is costing you to rent the space to store your old records in your office. Perhaps you can rent less expensive space elsewhere, such as in a commercial storage warehouse.

Office Manager. The office manager is the lawyer who as a part of his duties with his associates, has the prime responsibility within the office for purchases of equipment, the handling of office procedures, etc. In this general area of law office management the law office manager should make some general effort to keep track of the amount of time that he is required to spend on such management. The law office manager has to pay attention to what is written in law periodicals relating to office management. He has to feel free to talk with other law office managers and with the managers of business offices in his area. He has to maintain contact with a few responsible office equipment suppliers. Yet the lawyer whose services are worth dollars an hour must bear in mind that he can only give a fair amount of his time to these management problems. Good judgment must be exercised in this regard.

New Developments. Science and industry are making rapid strides in the development of new types of office equipment. Hardly does one model appear than a competitive model of better design and operation comes along. The dangers in buying new and experimental types of equipment must be emphasized. Lawyers are cautioned against purchasing equipment that is not tested by thorough use, or which may be of an experimental nature and may soon be discontinued.

Service Contracts. The increased use of office equipment makes the service contract which is usually offered in connection with the equipment merit close study. For proper maintenance all machines, typewriters, copy machines, adding machines, calculators, etc., require regular inspection. The question the law office manager must determine is whether or not the machines can be more economically serviced by scheduling regular inspection calls on a per call basis rather than utilizing the maintenance contract. Frequently this is an alternative which is overlooked, even though maintenance costs for machines in a small office can

run into several hundred dollars a year. Some contracts are worthwhile; others are not.

Availability of Service. Lawyers in small communities far removed from the larger cities where home office services are available for typewriters, adding machines, and the like should be extremely cautious in purchasing equipment for which no local service is available. For example, a small law office having two electric typewriters may be entirely dependent on these machines. If they break down it can disrupt the whole office if it is necessary to wait days or weeks for a serviceman from a distant city to make a call, to say nothing about the high cost of such long distance service calls.

Standardizing equipment. Within reason there should be a definite effort to standardize equipmeut. Where at all possible all typewriters should be of the same make. Where possible, supplies furnished or approved by the manufacturer should be used with the machine in question. For example, in your office for typing you may use XYZ machines, carbon paper and ribbons. You could obtain a somewhat more advantageous price by shopping competitively on the ribbons and carbons. However, by dealing only with XYZ if you have any problem with the finished work, you can go to XYZ and tell them to correct the fault. Also standardization cuts down the number of contacts that you have to have with company representatives, and may afford savings on maintenance contracts.

Portability. All other things heing equal, attention should be paid to the portability of equipment. This is particularly true as far as dictating equipment, adding machines and calculators are concerned.

Telephone service. Offices are often not efficient when it comes to ntilization of equipment provided by the telephone company. I am not necessarily referring to the new telephone answering devices which can be rented or purchased, but rather to the various types of installations of desk telephones, intercom systems and buzzer systems that the telephone companies furnish, usnally on a straight rental basis. The man who wants to have a buzzer system to buzz his girl can resort either to a private electrician to install it in his office or can rent it from the telephone company for a few cents per month, which rental includes all services and makes provision for replacement after obsolescense. Telephone answering procedures and internal bookkeeping such as the posting of toll charges and the like are not within the limited scope of this talk on eqnipment. These items are regularly overlooked by most law office managers.

Where to Buy. Reliable makes of office equipment and furniture are too numerous to enumerate here. In any community it is usually possible to examine and have a demonstration from a local dealer of three or four comparative and competing items. It is generally advisable to place as much importance on choosing a reliable dealer who can provide service and will stand baek of the eqnipment as it is to select what appears to be the best equipment.

Used equipment. The office should plan its purchasing over a reasonable period of time so as to be able to take advantage of purchases of used equipment as it appears. Three years ago a lawyer pnrchased a new model dictating machine for $400.00. A month ago he purchased a new identical machine used, for $185.00. The machine has a full new warranty and had been completely reconditioned by the manufacturer. The more limited use that machinery gets in the office the more desirable it is to pick it np nsed.

Rental equipment. Another way that machinery can be utilized is either on a rental arangement or on an out of office contract arrangement. With the high cost of labor today where outside typing services can be used on larger jobs, or outside machinery facilities utilized to supplement the law office machinery, savings can frequently he effected. If the machinery needs (such as calculators or typewriters) occur only at certain times of the year savings can be effected by renting machinery. The income tax advantages of expensing out rental of office equipment is a factor to be considered.

Equipment records. Most offices keep inadequate records on their equipment and machinery, usually only enough to satisfy income tax purposes. Records of the cost of machinery and maintenance should be kept whether or not the machinery is depreciated for income tax purposes.

Charging for Copies. In many instances clients are accustomed to paying for such items as photocopy of Thermo-Fax when they would be offended at having stenographic time billed out to them. In most accounting offices stenographic time is billed out on an hourly hasis without protest from the client. In most law offices that practice is not followed. By using the copying devices and the like, your clients are usually willing to have such items included in addition to your regular fee.

Office Safe. The office safe is usually an overlooked and obsolete piece of equipment. The ordinary office safe is too large and is used as an oversized wastebasket. A good small safe with a high fire resistance is better than a large safe. A law office should not be a safe deposit company. Clients should be encouraged to put their primary papers in a safe deposit box. Further, the more primary papers that one accumulates in his safe just increases the handling effort that mnst be expended.

Insurance. Law office managers commonly overlook keeping up proper insurance on equipment. The office equipment in every small office will run hundreds of dollars per man. Managers of offices for some reason are reluctant to bring personal property insurance up to anything approaching the insurable value of the equipment.

Obsolete equipment. Give away or sell for the best obtainable price every piece of obsolete, non-used machinery in the office. If a piece of equipment wears out and can't be satisfactorily traded in, junk it. An obsolete typewriter, an old mimeograph machine that is not being used, or an adding machine that doesn't work and can't be adequately repaired simply takes up space and looks bad to the client.

Your law office. Fully as important as an efficient office system and modern office machinery is the importance of a comfortable attractive office with an efficient layout.

There is an increasing trend toward the construction of professional office buildings for occupancy by one or more lawyers, and for the redesign and refurnishing of rented office space along more modern lines. Certainly every consideration should be given to the maintenance of a thoroughly modern and comfortable office. The client cannot be expected to be impressed by some of the dingy, antiquated offices that one finds throughout the country.

More important than merely creating a good impression on the client is the fact that a modern, well-equipped and comfortable office will improve the efficiency of the lawyer and of his staff. It is not enough that the office be neat

and clean and comfortable, but it must be laid out to facilitate efficient operation.

Sinee a lawyer spends approximately one-third of his time in his office, he should give every consideration to making it a comfortable place for himself and his staff. There is really no excuse for not having air conditioning iu this modern age if you live in a climate that requires it. Similarly, adequate heating and ventilation, and particularly, adequate lighting, are a must.

Law Libraries. Office rents have doubled and secretarial salaries have increased greatly, but the increased cost of maintaining a law library has soared out of sight. This is due to a combination of many more books being necessary, as well as the higher cost of the books themselves. On top of the cost of the books, is the rental of office space to accomodate your ever increasing library.

Some lawyers have formed joint law libraries maintained by several law offices. Some have found it necessary, even though they dislike doing so, to discontinue some of the sets of reports and other reference works simply to save money. In some states the trial court, usually in the county seats, maintain a fairly complete library. If the lawyers in the area with the assistance of the court and the local bar association, make available to the library certain volumes and reference works, it will relieve the pressure for iudividual lawyers to purchase them.

One new idea in this field has appeared in recent years. It is the micro-card on which is printed in minute form micro-photographs of up to 100 pages of a law book. By inserting this card in a magnifying reader, the lawyer is able to quickly find the proper page and to read the magnified reproduction in full size. These micro-readers have some advautages, particularly in saving space, but they also have some disadvantages. They do not save a great deal of money and are available for only a few editions at this time. For certain purposes they have much to recommend them, and it will pay you to watch what develops in this field.

(Applause).

MR. SATTERFIELD: They tell the story in Mississippi of the bachelor lawyer who was in a will contest, you all have will contests up here in this area, I am sure, but anyway, this bachelor lawyer stayed up all night trying to break the widow's will.

Now I think most of you realize that we must charge an adequate fee for the services rendered. You saw those figures awhile ago. There is one factor that stands out like a sore thumb. We are not charging the proper fee for the services rendered. Our income is not realistic for the services rendered as compared to the income of other professions, businesses and trades.

One way to do something about it is to increase our efficiency, as Phil has pointed out. Another is that many lawyers are too busy. We should be able to make a reasonable living in five days a week, eight hours a day.

You can take this pamphlet, The 1958 Lawyer and his 1938 Dollar, which we will pass out, and check and find where you have made money in your practice and where you have been losing money, and everytime you render a fee you can tell whether you made money or lost money on that case. We have tried it for the last 15 years in our firm and found out we came out a little less medium, and that is a little less than medium. That is the good old Mississippi way of saying less than medium.

Here is a way to get ahead. If you will turn to Page 11 in this green pamphlet

you will find a chart of a time record. It is well worth your time to keep a time record if you do it right. You will find the number of engagements on the left side, the nature of your services in the middle of the page, and the number of hours you spend on each client on the right side of the page. You will find that you won't spend more than 5 to 6 hours a day on chargeable time.

If you will set up a client's ledger, as is shown on Page 13 of this pamphlet, where you have the debits, credits and the balance on the right side, and on the left the number of hours and the number of dollars per hour on that particular client's work, and if you will keep that ledger up you will find it will be well worth your time. It won't take you more than 15 to 20 minutes a day to keep it up. If you want to be a good businessman and you can show how much time you put in and how you arrived at the time you will have no trouble in collecting your fee.

Now I will take just a few minutes to outline what the American Bar is setting up. May I tell you briefly what our committee is trying to do.

The committee plans to prepare a manual for use in economic surveys by state and local bar associations, including an outline of the factors to be developed, methods of setting up such surveys, forms of questionnaires and methods of interpreting the facts thus obtaiued. If the state and local association find it desirable to follow the basic pattern set up in this manual, the uniformity which would result will be of great value in obtaining and interpreting information on a national basis. This probably will not be ready for distribution during the present year.

At the request of this committee, the Coordination Service of the American Bar Association has reviewed about 600 minimum fee schedules from all parts of the United States and has prepared the "Sampling of Attorneys' Minimum Fees Prepared by Geographic Location." This compares 19 basic classes and types of fees charged throughout the United States as reflected by such schedules. Of course, this should not be taken as reflecting the average or even reasonable fees, but nevertheless is a definite guide as to the relative basis of charge in such areas. The committee has obtained copies of a detailed compilation by states of fees charged by executors and administrators, and also copies of the report of a committee of the American Bar Association concerning fees and commissions in probate proceedings which gives valuable comparable data from many states. Copies of this material will be furnished to all of the 1,341 bar associations with which the American Bar Association is in contact, and are available upon request by any member of the Association.

For many years outstanding service has been rendered to the profession by the Committee on Continuing Legal Education of the American Law Institute collaborating with the American Bar Association. This committee is prepared to aid state and local bar associations in organizing and conducting institutes on law office management and the economics of law practice. In this respect it is cooperating with the Special Committee of the American Bar Association on the Economics of Law Practice. For such institutes, the committee performs the following services:

(a) Procures lecturers.

(b) Prepares advertising circulars.

(c) Prepares newspaper releases.

(d) Prepares and provides lecture outlines and related printed materials.

(e) Submits an estimate of cost and suggestions as to the registration fee.

(f) Offers administrative advice to local sponsors.

Revenue derived from registration fees is used to defray expenses. The committee shares the profits with the local sponsor or charges a modest fee for its services. A manual describing such services is available on request from John E. Mulder, Director, Committee on Continuing Legal Education, 133 South 36th Street, Philadelphia 4, Pennsylvania.

In addition to this assistance which the Special Committee is cooperating in making available to state and local bar associations, it is now preparing a series of pamphlets to be known as the "Economics of Law Practice Series." These will include a pamphlet designed to assist individual practitioners and law partnerships in setting up modern business practices in their offices, to make suggestions generally in improving the economic status of the profession, and to render further aid to local and state associations in their activities. While the specific pamphlets and the order of their appearance is subject to revision, this series will probably be substantially as follows:

There has already been placed in the hands of every member of the American Bar Association a pamphlet entitled, The 1958 Lawyer and His 1938 Dollar. It is designed to suggest to individual lawyers the means whereby they can periodically examine their own practice through cost analyses of types of practice, maintenance of time records, computation of fees and maintenance of simple accounting records. It also includes a bibliography of leading articles, texts and pamphlets upon the several phases of the economics of law practice. This pamphlet was printed without cost to the American Bar Association as a public service by West Publishing Company.

The second pamphlet will contain a rather detailed discussion of the present economic dilemma of the American lawyer. It is based upon information now available through numerous surveys made either by the American Bar Association or the United States Department of Commerce, or developed by local surveys. A review of developments over the last twenty-five years in comparable professions and in businesses and trades is sufficient to lead to the conclusion that drastic action by the legal profession is justified.

The third pamphlet will outline suggested action that bar associations can take to better the economic condition of the legal profession and will be prepared as a guide to individual lawyers in their work through local and state associations as well as a guide to such associations in the setting up and carrying out of programs in the field of economies of the law practice.

The fourth pamphlet is expected to be one setting forth law partnership forms, procedures and tax problems. Copies of the forms of partnership agreements have been obtained from approximately fifty law partnerships of all sizes from all parts of the United States. They are being reviewed and analyzed by the committee. The pamphlet will be distributed containing forms for partnerships of two or three lawyers, alternate forms for larger partnerships, and suggestions as to partnership procedures and tax problems arising in the partnership practice of law.

The fifth pamphlet will be entitled, Modern Equipment Makes You Money, and will include a discussion of methods, equipment and facilities available to

law offices to reduce expenses and increase efficiency as well as a brief treatment of suggested architectural lay-outs for use in law offices.

The sixth pamphlet will probably be a full discnssion of The Annual Legal Check - Up, as instituted and carried out by the State Bar of Michigan. It proposes that the bar associations sponsor, through public relations programs, and that practiciug attorneys encourage an annual legal check-up by all business and professional men. This would be utlilized as preventive legal advice, would alert business and professional men to pitfalls which are before them in the legal phases of their work and develop legal business which benefits the public and increases the field of servicc as lawyers.

Additional pamphlets will be considered from time to time, including one dealing with the lawyers' title guaranty funds as the answer to title insurance without legal services. Certain of the proposed pamphlets may be combined, and the order of their presentation will probably change as the program develops. Arrangements have already been made for five of these pamphlets to be printed as a public service without expense to the Association by publishing companies serving the profession and negotiations are now under way for two additional pamphlets to be thus published. West Publishing Company will print two additional pamphlets and Bancroft-Whitney Company and Lawyers Cooperative Publishing Company will jointly print two pamphlets without cost to the American Bar Association for distribution to all members of the Association.

We are also proposing a Bureau of Legal Economics of the American Bar Association. This committee is recommending that the American Bar Association, in its long-range planning, should consider establishing a special department or bureau of legal economics, dedicated to the economic betterment of the lawyer. It should serve the very practical need of lawyers to learn how to increase their efficiency (increased proficiency is a separate problem), and raise their net income.

The bureau should be a staff operation of the American Bar Association and should dovetail into and cooperate with the Association's public relations department, its Coordination Service, the Section on Bar Activities, and other pertinent Association activities. It should endeavor to provide ideas and working tools to the individual lawyers and to state and local bar asociations to the end that the economic position of the lawyer may he constantly re-examined and improved.

The initial operation would undoubtedly require a staff of three researchers plus two or three stenographer-clerks. This would undoubtedly require a budget of $50,000 or $60,000 or more. Every effort should be made to recruit a practical minded, hard-hitting staff. They would not necessarily have to be lawyers. It is possible that within two years it would develop into one of the most important phases of the entire American Bar Association operation. The resulting interest on behalf of the members of the profession should be so great as to attract a significant number of additional members into the American Bar Association which would largely offset the appropriation for the bureau.

Such a bureau could consist of a director and two assistants operating under the Exccutive Director of the American Bar Association with its functions divided as follows:

A. Department of Law Office Management
- Office design and construction
- Office organization
- Office equipment
- Management and equipment
- Systems, records, and files
- Exhibits and model offices
- Personnel plans and stenographer
- Forms—revision and time-saving procedures

B. Department of Statistics and Research
- General statistics—cost of living
- Lawyers' income
- Fees and fee schedules
- Office operating costs
- Statistical surveys, fact finding
- Research in office efficiency
- Field surveys

C. Department of Information and Publications
- Information service
- Speakers' bureau
- Pamphlets
- Magazine articles
- Articles for local publication
- Lending library of materials
- Special publications

Cooperating with the American Bar Journal and The Practical Lawyer, or editing a special publication concerning legal economics

Whether or not such a Bureau of Legal Economics is desirable and would be of sufficient import to warrant the expenditures can only be determined after the program has gotten under way by the members of the American Bar Association acting through the House of Delegates and the Board of Governors.

We also suggest that all law schools place a course upon their curricula covering the business phases of the practice of law, perhaps in conjunction with the teaching of ethics and instruction as to bar association activities. The committee is definitely of the opinion that such a course is not only appropriate but that it is necessary to help the young lawyer meet the business problems of the practice, including law office management and the calculation and collection of fees.

The committee feels that such a course should be combined with a study of ethics and participation in bar association activities. There are ample texts available for use in law schools. If local and state associations consider that such courses are desirable, resolutions should be presented and adopted in connection therewith.

In addition to the necessity of training students in the business phases of the practice of law, the committee feels that an effort should be made to place in the hands of every graduate material which will aid him in setting up his practice. This also can be used as a basis of encouraging membership in The American Bar Association and in state voluntary associations.

Those are some of the things we have outlined as part of our work for the American Bar Association.

I would like to say, on behalf of the committee, that it has been a real pleasure for all of us to be with you. One of the greatest pleasures I have in life is going to meetings such as this, and to the American Bar Association, and to realize that

throughout the entire United States, whether it be in states like Mississippi and Idaho, or whether it be states like California or New York, that there are honorable men, devoted to helping our country and our profession, and doing everything in their power to do that which is good. It is a real pleasure for us to meet with groups such as this all over the entire country and to find such fine people as there are everywhere in the United States.

There have been some controversial issues raised here today, and some suggestions have been made. I wonder if there are some questions.

FROM THE FLOOR: I want to direct this to Mr. Bank. I read this morning, rather hastily, in the ABAJ, an article by a gentleman, I thought he was from Minnesota, who said that he felt there was a direct relationship between our reduced incomes and the increase in the number of lawyers in the population. He thinks one of the means to avoid the problem is to better screen the graduates of the law schools. Do you think there is anything in that?

MR. BANG: Well, I disagree, of course, with his statement that there are too many lawyers. This is completely inaccurate, as I showed you this afternoon in the survey made by our American Bar Association, and that is the basis which I rely upon. As to the screening of lawyers, yes, I will buy that package—lock, stock and barrel. I think one of our worst offenses is that we have admitted too many shysters and men of questionable character—men lacking in ethical balance in our profession. We have some of those in every state, I know we have in Minnesota, and I suppose you have a few here, and it is up to the legal profession to clean its own house, and until we do so, and do so thoroughly, we are not going to merit the respect or honor which we want from our fellow Americans.

MR. MOFFATT: I am curious as to the minimum fee schedules you have examined, are they on a case basis, that is type of case, such as divorce, estate, deeds, wills, etc., or are they on a trial basis?

MR. SATTERFIELD: The minimum fee schedules throughout the United States vary materially. We have in our files about 600 minimum fee schedules from all parts of the United States. Some of them are very short; for instance, Uncontested divorce, $100; Contested divorce, $100; Investigation and Disposition of Criminal Case in Justice of the Peace Court, $100, and so on. They are divided into specific phases of practice for services rendered. Those which we believe to be the best, however, have included, in addition to the overall charge, that if there may be additional time spent on briefing, consultation, investigation, or additional appearances in court, then there is an additional charge. They are pretty well sub-divided into the type of services rendered.

MR. ENNIS: I would like to ask Mr. Bang a question. He mentioned that the larger the firm the larger the average of the income of the various partners. What is the cause and effect relationship that is involved there?

MR. BANG: I think you have touched upon probably the heart of the answer in our profession economically. Bear in mind that the large law firm offers continuity of lawyers. That is one reason why big business almost exclusively deals with large law firms. Now the tender part is this: The one-man office, and the two-man office, attracts to itself almost exclusively the individual client. And that is not where the money is in the law business. The law business makes money from big industry, banking, corporations, insurance, and what have you. The individual client is the poorest paying client which you have. You and I have

spoiled that client because we have never charged him according to the work that we do for him. We have taught him to believe and to expect that he should have a will drawn for $5, and a deed drawn for $3, and an office consultation for $2, and an office telephone consultation for nothing. And it is time for us to wake up, and to require every piece of law business we handle to pay its own freight, or we are not going to make the money to which we are entitled. Again I emphasize that I am not going to gouge anybody, but we should charge people in proportion for the work we do and the time we spend, which should be done on an hourly basis. The individual lawyer, therefore, is bound to make relatively less money. One, because he doesn't charge for his services and his time; two, because he doesn't attract into his office in any amount the large fee-paying type of client. Because we have the large firms there is the possibility of specialization. To go back again to the point I made, our lives have become much, much more complex than they used to be, and that attracts big business more than it does anyone else, and these large firms pay—they pay well for the services they receive.

MR. WARE: We adopted a minimum fee schedule some years ago in our district, and I think the lawyers generally have endeavored to observe it, but I have been astounded in going into offices and seeing the fee schedule publicly displayed and I was wonderiug whether or not it was advisable to have the minimum fee schedule paraded before the clients.

JUDGE SMITH: That matter has been mentioned by our committee. As I said awhile ago, the minimum fee isn't always the fee you are charging your client; hence, when the minimum fee schedule is displayed publicly, you are immediately making the minimum fee schedule become the maximum fee schedule.

MR. BAKES: I would like to ask Mr. Bang one question. You stated the results that Minnesota arrived at in increasing your relative positions from $5,600 to $9,500. Did you choose that for your fees schedule of the state bar association?

MR. BANG: My modesty doesn't permit me to answer your question directly, but I will say this, that lawyers in Minnesota do not only attribute it to the adoption of the state-wide fee schedulc. Lawyers are much better off, even if the minimum does become the maximum. Aren't you much better off to charge a realistic fee for the services you render, based upon the cost of production, than to operate by hit and miss as you have been in the past? Now by "you" I mean "we" in Minnesota. We had fees that varied for the same work from 200 percent to 1,000 percent. We had lawyers who handled adoptions for nothing; partnership agreements from $15 to $75; divorces for $50, and in some counties they were handling divorces for $35 up to $150, and our minimum is $150.

By all means, even if the minimum does become the maximum, overall you are going to be better off, but if you let the minimum become the maximum it is your own fault. You shouldn't do that. You should educate the lawyer and public that from now on the minimum fee you recommend is the cost of production, based upon the young lawyer who has practiced probably two or three years, his overhead, he has to make enough money to pay his rent and to pay his secretary a respectable salary, to support his family, to pay his bills as they fall due, and to save a little something for the future. If the law business isn't going to give us that much we are better off to be out of it, and the public is better off without us. The public is suspicious of lawyers, they are suspicious of us because we operate so deviously, so mysteriously. Let's open it up; let's just tell them what it costs us to operate—there is nothing wrong about that.

MR. MacGREGOR: Has your committee considered the instances where fees are awarded by the Industrial Accident Board, by courts, and by other boards and commissions, for instance, where there is a great discrepancy between the fees that are awarded and the minimum fee schedule; in other words they are always lower, and is there any correlation between this fact and the instances where those officials are being greatly underpaid?

MR. SATTERFIELD: We are recommending to the American Bar Foundation that they set up a study, which wouldn't begin until next year, to determine attorney's fees awarded by administrative agencies, by Federal Statutes, by State Statutes, by each type of administrative agency, existing all over the United States. As the result of that study, specifie recommendations would be made, and nothing could be done about them unless the organized bar got behind them and saw that it was put upon a proper foundation.

MR. DONALDSON: I noticed Mr. Bang referred to the Minnesota schedule as an advisory fee schedule. Don't you think there is a difference between an advisory fee schedule and a minimum fee schedule?

MR. BANG: Yes, we used the word "advisory" purposely, because that is what it means. We wanted to stay away from the violation of any regulation. There is just one suggestion I would like to make to you as a fellow lawyer. If you have had the same experience here that we had in Minnesota, you have found that some of our judges don't set our fees quite high enough where it was at the discretion of the judge. It was most helpful to use in Minnesota when we campaigned to heat the band to get the judges' salaries increased, and we were successful. And we also went to work to get better pay for our state legislators and our senators. There is no reason why the state legislators and senators should go to the capitol and work for yuu, losing probably $300 to $400 a month income while they are so doing. The taxpayers should pay them for the services they are rendering.

FROM THE FLOOR: Mr. Satterfield, we have talked about how much we bill clients; we have talked very little about the clients attitude toward paying their bills. If you render a service and accomplish a certain result, and the client is not anxious to pay the bill, does the old adage, "To the vietor belong the spoils," have any bearing on who should pay the fee? Is it possible, or is there some reason why each combatant, say, in a lawsuit should pay his own warrior, or should the winner gain not only the judgment but also attorney's fees? Would that make the clients feel better? If you tell them you lost and they have to pay the judgment and the other counsel fees, too, and be a real good loser, then your client would feel great because he wouldn't have to pay any attorney's fee, you did a wonderful job. The sad part of it is, when you have a party who has a just right and it is contingent upon someone opposed to it you serve him and he comes out with what he should have anyway, it is difficult for him to see why he should pay a great fee for going through the District Court and the Supreme Court to end up with what he should have anyway. So I think there should be some thought given to the person who is paying and what he is paying for. Maybe that doesn't have any bearing. Maybe there is some reason why each combatant shouldn't clothe his own gladiator. I wonder if the committee has given any thought to that aspect of it—the actual paying.

MR. SATTERFIELD: We have to the first part of your problem but not to the second. The first problem you raised is whether or not we can afford to increase fees and burden our clients with larger bills because they would be dis-

satisfied and feel it would not warrant it. I say certainly it is. We feel that if we are going to increase the income of the lawyers in the United States to the level we feel from these figures it should be, it is going to be up to you and to me and to the rest of us, to maintain records to show our clients that they are justified. Therefore, I think it is essential that we maintain our records in such a way that we can justify to our clients our increase in fees.

MR. WYMAN: I am not sure that the group has reached the crux of the entire matter, and it is this, in my opinion: The question of minimum fee schedules, and unethical practices, and increasing the volume of the attorney's income, is contingent directly upon the type of people who attend the state bar association, local bar associations, and belong to the American Bar Association. The wrong type of people go to those meetings. The ones that you don't have to worry about attend, and are here today. The ones who do not attend our local meetings are the boys who we have trouble with. If you solve that problem you solve a great deal of our trouble.

MR. HABERMANN: Your point is well taken, but it is quite often the sole practitioner, the young lawyer, the fellow who hasn't got religion, so to speak, who doesn't come to these meetings and who really needs the help. In Wisconsin we have been able to take one step in the right direction—we have abolished all registration fees at all meetings so that no young lawyer not making much money can say he can't afford to go from the standpoint of registration. As the general economic status of the bar increases the lawyers can better afford to attend these meetings.

MR. SATTERFIELD: I have here the results of one review of a minimum fee schedule by a committee of the Ohio State Bar which I would like to read to you.

The importance of utilizing a proper basis of calculation of minimum fee schedules and an important breakdown applicable to the various types of legal services rendered is high-lighted by a report in behalf of the Ohio State Bar Association, prepared by a committee of which Charles K. Correll was chairman, as follows:

"The committee has undertaken to report upon the relationship between the varying incomes for lawyers in the several counties of Ohio, and their relationship, if any, to their established minimum fee schedules. While the committee possesses minimum fee schedules for more than half of the bar associations in Ohio, it was felt that the study should be confined to a few counties of comparable size to eliminate such factors as industrial or agricultural economics of the various sections of the state, and to narrow the comparison to counties which are similar enough economically and population-wise and yet which vary considerably in median incomes.

"The minimum fee schedules were examined for each of these counties and comparisons made, based upon minimum fees established in relation to median income for each county. It became immediately apparent that the counties wherein the lawyers had the lowest incomes, had not only the lowest minimum fee schedules, but also the least comprehensive break-down of services in their fee schedules. This leads to the possible conclusion that lawyers have a less comprehensive fee schedule and consequently lack a guide for charges for services. In many fields they either underestimate the value of their services or are not reminded of the hours of services that many have performed in an individual case. For instance, the more comprehensive schedules suggest charges for preparation time, both for trials and office work, in connection with contracts and other instruments.

"The committee feels that from this study one can draw a definite conclusion toward a too low or too skimpy minimum fee schedule greatly contributes to the low income of the lawyers in a county to a greater degree than generally realized, and that much can be done toward increasing the general level of income by a thorough study of the minimum fee schedule, not only for the purpose of increasing minimum fees but in providing a more comprehensive detail of the various services performed by the lawyers to guide them in fixing their fees."

In closing, I would like to summarize and tell you that it seems to this committee that there are no factors reasonably justifying the status of our profession and its present income as compared to other professions and businesses; it seems to this committee there are no factors existing which reasonably justify the relative incomes of other professions, businesses and trades compared to the legal profession; it seems to the committee there is only one source of trouble, and that is it is the trouble of the lawyers of the United States. It is not the fault of the businesses, nor the fault of the doctors, nor the fault of the dentists—it is the fault of the lawyers in the United States for not charging a realistic fee for the services rendered in accordance with the increased costs. We haven't taken the time to work together and to see that the value of our services has increased. The fault rests solely on the legal profession. (Applause).

JUDGE SPEAR: Some of us may think we have devoted some time to our profession, but think of the time these gentlemen have spent on this one project. It is almost unbelievable.

We are very, very grateful for your coming, Mr. Satterfield, Mr. Bang, Mr. Habermann, and Justice Smith. We certainly appreciate it and I think we should display it by giving them our applause. (Applause).

Incidentally, I might add, for those of you who did not hear me at the institute at Boise in the spring, these gentlemen came out here with a little hocum-pocum on the part of Justice Smith, and the only expense the Idaho State Bar stands for these gentlemen is for them to be our guests here at Sun Valley. It is a real service to us and again I think we should acknowledge it. (Applause).

MR. ST. CLAIR: We will convene in the morning at 9 o'clock.

Excerpts From Banquet Proceedings and Award of Merit

Friday Evening, July 11, 1958

MR. ST. CLAIR: At this time I would like to introduce Les Anderson from Pocatello, who will introduce the Idaho State Bar Man-of-the-Year, and he will present the Award of Merit. Les. (Applause).

MR. ANDERSON: Mr. President, Distinguished Guests, Ladies, a few Gentlemen, and Golfers:

I don't usually talk like this, but I knew that there were a number of distinguished guests here so I thought I should develop some sort of a judicial voice, and I worked hard on it. It will leave me in a couple of days—probably tomorrow morning.

There are a lot smarter fellows than I who should do this, but I can assure you that this microphone is out of order. I didn't know my voice would do that; in fact, I have talked through better plumbing than this before. But anyhow, I can tell you that what little I know, I know just as good as anybody.

Before we get into the main part of the evening, I was over at the Opera House yesterday afternoon listening to this panel talking about the deplorable condition of the finances of the lawyers. I am directly interested in that because I am salaried. Anyhow, I have some friends here, and I don't want you to talk too quick that whatever I am being paid it is too much, because there are other people listening who might agree with you.

Anyhow, I have arranged to give you a break. The manager of Sun Valley reports accidents here, and of course he reports them to me in his usual course of business. It isn't under the business record law, but we get them. I told you I would give you a break to enable you to enhance your income. Of course, all of you can't engage in this, so it will have to be the one who gets there first. So the report is just now that there was a lady skating on the ice out here and she fell and hurt her somewhat.

The object of onr affection tonight is a young fellow who has many years of law experience. A few years ago I suppose you would have said that this is an old man with little experience, but I have just learned that the life expectancy of man has been increased, and that has been done for the sole purpose to give him plenty of time to pay his taxes.

Our object tonight—now I will mention his name eventually, I hope—oh, he is extremely cultured, and actually I think something ought to be done about it. He is a typical American and he appears refined, but he is intelligent. He had some trouble in his practice once. He—well, he was completely stripped and thereafter he barely got along. I was afraid I would have to write you a letter about that.

Now, this man is of keen wit and many years ago he was riding on one of our trains—that was at a time when people rode trains instead of going out on the highway and getting their necks broken, and he went through a car and there was a lady sitting there. She had her foot partly out in the aisle, and I guess he stepped on her foot, or bumped it, or something, and she looked at him very indignantly and said, "Young man, I think you should put your foot where it belongs," and he said "Don't tempt me lady, don't tempt me."

Our man has a real good background, one that you could all desire. He has many degrees. After he got them he went to Puerto Rico, where he was Assistant Professor of History. He was married there, and after he got a sufficient amount of tan he returned to the States. He practiced law in Salmon from about 1918 until 1933. He left there and went to Boise as Assistant United States Attorney. From that remark you don't guess who I am talking about. He was there for 15 years, and then one of the highlights of his career set in; he came to Pocatello and was associated with me for six years. If it wasn't the highlight of his career, it was the highlight of mine.

He tried to impress me, I think, with his great ability, he didn't have to do that because we all know of that, but anyway, he told me while in the United States Attorney's office he tried some 100 cases of a particular type, involving personal injuries, which he thought might stand him in well in defending a railroad company, but anyway, I believe he had 100 per cent success, so I immediately congratulated him on that, and he said, "Yes, I lost every one of them." I wrote that before you mentioned yours this afternoon, Mr. Shepperd.

Well, you all know this man much better than I do; I wouldn't say much better, either, because in my six years with him he endeared himself to me. He is a lawyer and a man. He is a man that any of us could be proud of to be either associated with in the practice, or to merely call a friend and to know him.

I don't have adequate adjectives to properly describe this fellow, and I don't think I need to do it before this audience, but I can tell you he is a capable lawyer, he is a splendid person, and his character is above reproach. We travel in different circles, I guess that is the reason his character is all right. He practices law as you and I want to practice law; he practices law as Mr. Shepperd told you about how we should practice law. He has always helped young lawyers, as well as old. He is quick to notice trends of the times. I can't swear to this if you want to put me under oath, but at least I am unreliably informed.

A young lawyer came to him and told him about his case and he said, "Cass," oh, I mentioned his name, he said, "Cass, I have got a terrible case, I don't know what to do about it," he explained to Cass and when he got through Cass told him, "I am afraid," he said, "you had better do thus and so," so this young lawyer says, "Well, Cass, I don't think the law will support me on that," so Cass said, "To hell with the law, let's do things right once."

But he doesn't practice law that way. He practices it as he should practice, and the only way he would practice.

He has done many things for the Idaho State Bar. One of the recent things he has done is to travel around to every local bar association in support of the Federal Rules that are about to be adopted by the Idaho Supreme Court, and that was on his own time. Those Federal Rules, you know, those are rules where it might be considered as wrong to wait until trial to surprise a witness with the truth.

Cass has been, is now, and will continue to be, a great credit to the profession. He has more than earned this award of merit.

It is my personal privilege and pleasure to present this Award of Merit on behalf of the lawyers of the State to you, Mr. E. H. Casterlin. (Applause).

MR. E. H. CASTERLIN: I have always been in the habit of wanting at least

48 hours' notice of every extemporaneous speech, so what I say tonight falls from unsteady lips and might be the truth, but I haven't had a drink.

Talking about coming to Idaho, that has been explained to you, where I came from and how I came here. I have been told about how Mr. Anderson came to Idaho from Utah, and that there was quite an argument in the family as to whether or not they wanted to stay in Utah or whether they wanted to come to Idaho. On the day the argument grew warmer, a Fuller Brush man came to the house, rapped at the door, and Blaine, who was a little boy, came to see who was there.

"I want to see your daddy."

"You can't."

"Why?"

"Dad's very busy."

"What's he doing?"

"He is in the bedroom praying for guidance as to whether he should go to Idaho or stay in Utah."

"Is your mother here? I would like to talk to her."

"Yes, mother is here, but you can't talk to her."

"Why?"

"She is busy."

"What is your mother doing?"

"She is upstairs packing."

You know, I have been told what a wonderful man I am. We all like to sit around on a barrel and tell what we used to be, but I want you to remember that when Mr. Anderson let forth those immaculate words he wasn't under oath; you can discount them.

Well, it has been a wonderful life. I came to Idaho in 1911 to stay a year. I haven't been away since, except on request of clients.

One story Mr. Anderson mentioned reminds me of a record we have in the Idaho Reports, when he said the management had reported a woman had hurt her somewhat. There is a report in the Idabo Reports which mentions a woman who was hurt between the apricots and the prunes; whoever knows where that is is smarter than I.

Idaho is a wonderful state; we live our own lives; we live our own way.

There is another famous report in the Idaho Reports which has to do with a divorce case, and that wonderful justice, who was the unmatched user of the English language, wrote in his report a resumé of the husband's testimony against his wife when his wife was suing him for divorce, and the gist of it was this: "I have been true to you, Senora, after my own fashion." That ought to settle that question.

We have an array of leading lawyers around me here which reminds me of an experienee that a judge had. Don't take offense at this. Whatever I say would be unintentional. The kids were having a baseball game one day and they got into an argument over an interpretation of one of the rules .They eouldn't settle it among themselves. One of the boys said, "Here comes Judge Phillip d'Glass. We will ask him to settle the argument we have." When the judge came up they asked the learned man if he would settle the argument. "I believe so." The little kid reached in his pocket, handed him a dime, and said to him, "You flip it."

I have had a wonderful experience in Idaho. I practieed law in the town of Salmon. If you think that was not an experience yon have some thing to look forward to.

Once in the early fall, Crow Mount, quite a character, he was known as a "dollar a stack" man, (let me put it that way so you will understand) was on his way from an evening in town to his work on a nearby farm, when he thought it would be nice to take home a turkey for the boys.

He tied his horse to a fence where the grass was high, climbed the fence, and sneaked up to the corral fence where Lew Ramey's turkeys were roosting. He hit one of the turkeys on the head, and you all know how noisy turkeys are when disturbed in their sleep. Ramey came out with his gun and Crow left the turkey where it fell on the ground.

Crow was arrested for stealing a turkey and his trial was had in the Probate Court, one of the higher courts in the smaller counties. The testimony was that the turkey never was moved from the place where it fell.

In the probate courts the jurymen are judges of the law and the facts, so I read to them from some old book that was handy that to be guilty of stealing there had to be an asportation, a fact which was completely lacking. The jury agreed with me and brought in a verdict of "not guilty."

Then Crow was arrested for malicious destruction of property. At this trial Crow said he had no malice toward Lew Ramey or the turkey, and Ramey testified that he had no malice toward Crow, and knew of no malice that the turkey had against Crow.

Again reputable law was read to the jury that, in the absence of malice, Crow could not be found guilty of the offense charged. The verdict was again "not guilty."

Now Crow had no money to pay an attorney and all parties had a good time. Notwithstanding, a few days later Crow met me on the street and said, "Cass, I haveu't any money to pay you but if you will be patient I'll bring you a turkey for Thanksgiving." (Applause).

What funny things happen to a country lawyer. That is all I hope to be, just a small town country lawyer, trying to do things right—the law to the eontrary, notwithstanding.

A political boss of Chicago paid one of our living ex-presidents quite a compliment the other day when he said that Brother Harry never did admit that there was anyone higher than he; by the same token he would never admit there was anyone lower; consequently, he was an avcrage citizen among average people and an equal among his peers.

Now, my time is up; I will quit. I think I have done pretty good for the chance I have had. I am like the old Texas hound, whose head bulges out and his rear caves in, but he is a good old dog for the shape he is in.

Mr. Anderson, Members of the Idaho State Bar Commission, Honored Guests, Ladies and Gentlemen, Fellow Democrats:

I sincerely appreciate from the bottom of my heart the award you have given me this evening. To say less would be a falsehood; to add more would be unnecessary, so I am going to thank you from the bottom of my heart for this honor which you have bestowed upon me.

I told you I always liked to have 48 hours' notice of an extemporaneous speech. As I look the thing over now I begin to realize that I should have taken a hint that something was going to happen because within the last two weeks I have gotten mail out of the post office, ripped it open, looked at it, and it said, "Dear Fellow Democrat," and I should have been forewarned something was going to happen, especially when I got a letter the other day which read, "Dear Fellow Democrat: We must all stand together for success," and down at the end I just happened to see the name "Adams." I can't show it to you to prove it is a fabrication. (Applause).

BUSINESS SESSION

July 12, 1958, 9:30 A.M.

MR. ST. CLAIR: The meeting will come to order. Please reassemble yourselves according to bar districts. It will be necessary to vote this morning.

Will the Chairman of the Canvassing Committee give his report? I believe Ed Pike has already left here. Are any of the members present—Chuck Donaldson or Wynne Blake?

MR. DONALDSON: The Canvassing Committee met several times and did some very hard, arduous work. We had a very closely contested race. I hope none of you Democrats will ask for a recount. Blaine Anderson has been elected the new commissioner.

MR. ST. CLAIR: Blaine, will you kindly come to the rostrum?

MR. ANDERSON: There is lots of business to be done this morning so this will be short. I want to thank you and I will do my utmost to serve your interests.

MR. ST. CLAIR: We will commence with the resolutions and the Chairman of the Resolutions Committee, Sid Smith, from Coeur d'Alene, will take over.

MR. SMITH: Gentlemen—I would first like to say that the members of the committee who served with me, and who served yesterday, the procedure this year has been that, with the appointment of the chairman, each of the respective presidents of the bar associations was appointed to be the A-member from his district of the Resolutions Committee, and either he was there or there was a designate.

I would like at this time, since we spent the afternoon yesterday, to have these gentlemen stand as I eall their names. We had the following who served on the committee:

Bert Larson, Jack Hawley, Bill Gigray, Dick Magnuson, Blaine Anderson, Grant Young, Joe Anderson, Jim Ingalls and Marcus Ware.

We had at our meeting a representative of each of the bar districts, with the exeeption of the Southeastern.

In addition to those representatives meeting with our committee, we had the Bar Commissioners, who sat in an advisory capacity to answer any questions that we might have, as well as the secretary of the bar.

We also had as our guests, Judge Norris, and a delegation from the Probate Judges organization—Judge Myrick came down especially to be with us at the meeting with respect to our report on inferior courts, and Judge George Redford and Judge Crane were also there.

The result of the committee's work of yesterday afternoon, as I shall now report it, and the first is Resolution No. 1.

Resolution No. 1

Resolved that the report of the Committee on Inferior Courts be accepted, but that the same be referred back to the committee with instruction to afford individual lawyers, local bar associations, and other interested groups an opportunity to submit written comments and suggestions thereon, and thereafter that the committee resubmit, at the next annual meeting, the proposal in specific legislative form.

Mr. President, I recommend the adoption of this resolution.

MR. HAWLEY: I second the motion.

MR. ST. CLAIR: Would anyone request that resolution be read as submitted to the Resolutions Committee? I believe you are all familiar with it. Is there any discussion? I believe this resolution is in respect to legislation and we would have to vote by districts.

MR. McNICHOLS: Mr. President, as I understand it, this is only to accept the report, actually, and to refer it back to the committee; it doesn't seem to me that it is legislative.

MR. ST. CLAIR: If tbere is no objection, we will accept that. All those in favor signify by saying Aye. Opposed No. The motion is carried.

MR. SMITH: I will now read Resolution No. 2.

Resolution No. 2

Resolved that tbe Supreme Court of the State of Idaho be requested to adopt new rules of criminal procedure, after preliminary study and editorial work has been completed, under the auspices of, and financed by the Code Commission, at the court's request, and in the same manner heretofore followed in connection with the adoption of new rules of civil procedure, and

Be it further resolved that the report of the criminal rules revision committee submitted at this meeting, annexed hereto, be forwarded to the Supreme Court for its consideration.

Annexed to the resolution is thc report submitted by Judge Norris's committee, and unless you would like to have it read, I would now move, Mr. President, that this be adopted.

MR. ST. CLAIR: Is there a second?

MR. HAWLEY: I second it, Mr. President.

MR. ST. CLAIR: Is there any discussion, or does anyone care to request it be read?

FROM THE FLOOR: Request it be read.

MR. ST. CLAIR: There has been a request that it be read.

MR. SMITH: This is the report:

The Honorable Board of Bar Commissioners
of the State of Idaho
Gentlemen:

Last August you appointed a committee consisting of Wayne MacGregor, Herman McDevitt, Professor Herbert Berman of the University of Idaho, and myself, as chairman, to study and make recommendations relative to adoption of new rules of criminal procedure by the Idaho Supreme Court.

As you know, the power to make rules of procedure, both civil and criminal, is recognized as an inherent power of the Supreme Court. Our Legislature in 1941 passed what is now Section 1-212, of the Idaho Code and which reads as follows: "Rule-making Power Recoguized.—The inherent power of the Supreme Court to make rules governing procedure in all the courts of Idaho is hereby recognized and confirmed."

It was your recognition of this power of the Supreme Court to make such rules of procedure in the field of criminal law that undoubtedly prompted you to appoint this committec. Specifically you authorized this committee to inquire into three questions and to make recoumendations on those three questions, which are as follows:

1. Should new rules of criminal procedure be adopted by the Idaho Supreme Court?
2. If so, the manner in which the editorial work necessary as a preliminary in adopting such rules could be accomplished.
3. How could such editorial work be financed?

The committee, after rather intensive study, has formulated these recommendations on the three questions just read:

The committee unanimously and emphatically believes and recommends that new rules be adopted by the Supreme Court governing criminal procedure in all the courts of the State. The committee concludes that the need for such new rules is overwhelming and that the Supreme Court should exercise its inherent power to adopt rules of criminal procedure. The present rules of criminal procedure are mostly contained in Title 19 of the Idaho Code and are based primarily on the Field Code adopted in California in 1864 and there has been no systematic revision of our code in the iutervening years. The piecemeal changes made by our Legislature have not been well drafted in many instances with the result that our Codc of Criminal Procedure is largely obsolete, many of its provisions are ambiguous and others are positively harmful. To incorporate herein all of the reasons why the committee believes this to be true would unduly lengthen this report and reference is made to the well-written and length memorandum whieh was prepared by Professor Berman and sent to the Bar Commission in January, in support of this committee's position. Suffice it to say at this time

that procedure relative to the law of arrest, search and seizure, double jeopardy, count pleading, the Grand Jury, proceedings on indictment and information, pleadings by a defendant, trial procedure, seleetion of juries and discovery proceedings were some of the matters looked into which resulted in the committee's unanimous recommendation that new rules of criminal procedure be adopted by the Supreme Court and not by legislative enactment.

On the second question, that is, the matter of editorial work, investigation of enabling statutes reveals, in the opinion of the committee, that such work could be very easily accomplished by the same means that were invoked on the new rules of civil procedure; that is to say, after a specific type of rules was decided upon as being the best type to recommend. On this question of editorial work, no specific recommendation is being made as to who should do the work but the committee does recommend that a new committee be appointed to work with the Bar Commission, the Idaho State Bar and the Supreme Court specifically to investigate the various rules that are in existence in other jurisdictions or are being drafted as model codes and to make specific recommendations thereon later. After the basic type of rules was decided upon, a contract could be let for the editorial work.

This committee is not recommending any specific type of rules because such is beyond the scope of this committee's assignment. However, one member of the committee suggested following the Federal Rules of Criminal Procedure as closely as possible. The advantage of such was pointed out in that such rules have already been worked out for the Federal courts, a body of case law has developed on them already and that such works as Barron and Holtzoff, Federal Rules Decisions and West's Federal Forms cover the Fcderal Criminal Rules and no additional books besides those necessitated by the new civil rules of procedure would be required.

On the third question submitted to this committee, it is the belief of this committee that the statutes which pcrmitted the use of funds by the Code Commission in the editorial work and printing of the new rules of civil procedure would also permit the Code Commission, if it desired, and if there was enough money available at the time, to pay for the cost of editorial work and printing of new rules of criminal procedure. The committee believes that the Code Commission Act, as it is now amended, and which act is now contained in the Pocket Part Supplement to Volume I of the code (commencing on page 35) would legally authorize the Code Commission, in its discretion, to use funds madc available to it for such editorial work and printing cost.

The committee has concluded that although beyond its authority, it should nevertheless, recommend that the whole field of substantive criminal law be revised. This, however, should wait until the jurisdiction of the inferior courts is revised by proper legislation pursuant to a recent constitutional amendment, and which jurisdictional question, this committee understands, is now being studied by another committee.

Although recommendations to the 1959 Legislature are also beyond the scope of this committee's authority, it was felt that one matter for proposed legislation should be called to the Bar Commission's attention. Section 18-4604 of the Code, working with inflation has made many a person a Felon rather than a Misdemeanant. Grand Larceny is defined as "When the property taken is of a value exceeding sixty dollars." The value of sixty dollars as of 1864 would be equal to several hundred dollars today. Section 18-4604 should be amended to take into

account inflation since 1864. Corrective legislation on this point would also correct those statutes that are tied to the Larceny statutes such as Embezzlement and Obtaining Money or Property Under False Pretenses.

One more matter the committee believes should be called to the Board's attention, although this likewise is beyond the scope of the committee's authority and that is, that although it would take a constitutional amendment to permit such to be done, provision should be made to permit waiver of jury trials in felony cases.

Respectfully submitted,
Committee on Criminal Rules Revision
By CILBERT C. NORRIS, *Chairman*

Now that is the annexed report to Resolution No. 2, and if I may, I shall now repeat Resolution No. 2.

RESOLUTION NO. 2

Resolved that the Supreme Court of the State of Idaho be requested to adopt new rules of criminal procedure, after preliminary study and editorial work has been completed, under the auspices of, and financed by the Code Commission at the court's request, and in the same manner heretofore followed in connection with the adoption of new rules of civil procedure, and be it further resolved that the report of the criminal rules revision committee submitted at this meeting, annexed hereto, be forwarded to the Supreme Court for its consideration.

I again move the adoption, Mr. President, of the resolution.

MR. ST. CLAIR: Again, is there a second?

MR. HAWLEY: I will again second the motion.

MR. ST. CLAIR: Is there any discussion? All those in favor signify by saying Aye. Opposed No. The motion is carried.

On behalf of the State Bar, I wish to thank Judge Norris and his committee for their very comprehensive work. They spent a great deal of time on it and I think they have come forth with something that will prove beneficial.

MR. SMITH: Resolution No. 3 has to do with the matter which Justice Clark spoke of from the podium yesterday. This is an acknowledgment resolution:

Resolution No. 3

Resolved that the Idaho State Bar express its appreciation to the Congress of the United States, through the Idaho Congressional Delegation, for the legislation permitting the Judicial Conference of the United States Judges to make a continuing study of the Federal Rules of Procedure, and to make recommendations to the Supreme Court of the United States on its rules.

Mr. President, I would move the adoption of this resolution.

MR. ST. CLAIR: Do I hear a second?

MR. LARSON: Mr. President, I second it.

MR. ST. CLAIR: Any discussion? All those in favor signify by saying Aye. Opposed No. The motion is carried.

MR. SMITH: Resolution No. 4. This resolution also has a very voluminous annex, the annex is the manual itself for the preparation of proposed legislation, and it emanated from the Third District Bar Association. I believe there has been wide circulation of this. I don't mean to cut off the reading, or the information, but it has been the action of your committee, as follows, and we would suggest this.

Resolution No. 4

Resolved that the resolution in the form hereto annexed, relating to the manual of proposed legislation, and heretofore adopted by the local bar associations, be approved by the Idaho State Bar, and that the Instructions therein contained be followed.

The resolution referred to is as follows:

Resolved that the Manual for the Preparation of Proposed Legislation prepared by the Committee of the Third District Bar Association be approved, and that copies thereof be sent to each local Bar President with the request that it be approved by the local Bars and also approved at the Sun Valley meeting, and when so approved that the same be distributed by the Idaho State Bar Association to all members of the Idaho Bar and to all members of the next legislature, and and that we urge the Idaho State Bar to make every effort to have each House of the Legislature authorize the use of the manual in the preparation of Bills.

I would at this time, Mr. President, move the adoption of the original resolution.

MR. ST. CLAIR: Might I ask Chairman Smith whether or not you have any report from the local bars as to the adoption of this?

MR. SMITH: None other than I believe that Bert Larson reported in their district it had been adopted, is that right, Bert?

MR. LARSON: I think not, Mr. Chairman.

MR. SMITH: Exeuse me.

MR. LARSON: We adopted the inferior courts committee's report.

MR. SMITH: Excuse me. Then we had no specific poll of the respective bars except by their designates who were there yesterday and the action by each of these designates or presidents of the bar were unanimously in favor of the adoption of this resolution.

MR. ST. CLAIR: Is there a second to the motion?

MR. ANDERSON: I second it.

MR. ST. CLAIR: Is there any discussion?

MR. MOFFATT: Mr. President, I wonder if the motion shouldn't be amended to add that the proposed manual be submitted to the Legislature with the request that their rules be so drawn as to comply with the manual, because if the Legislature, which is its own government, as far as its rules are concerned, adopts rules which do not apply to this manual, it is a waste of time. During the last session some of us who were steeped in tradition were completely at sea because of some of the interpretations placed on rules and drafting of legislation, and some of those bills had to be redrafted four or five times, simply because of the

construction of the printing committee of a house rule. It seems to me, to make this effective, I am in whole-hearted agreement with it, it should be submitted to the Legislature and the Rules Committee of the Legislature and refer it to the two house, and your resolution should contain such a provision, in order to carry it on through. That is simply an observation as to the effectiveness of it.

MR. ST. CLAIR. Mr. Moffatt, I understand that is an inquiry and not an amendment, so I will ask Chairman Smith to answer your question.

MR. MOFFATT: That is an inquiry.

MR. SMITH: Frankly, I think probably the point is well taken, and perhaps an amendment to the motion might well be in order.

MR. MOFFATT: I move that the Legislative Committee of the State Bar be given the power to present this matter to the House of Representatives and to the Senate, and request that appropriate rules be drawn to comply to make this manual effective. That is not very well worded. I hope somebody can better it, but that is the idea.

MR. ST. CLAIR: You have heard the amendment. Is there a second?

MR. WARE: I will second it.

MR. ST. CLAIR: The amendment has been moved and seconded. Is there any discussion?

MR. WORTHWINE: Mr. President and Mr. Chairman: I happened to be chairman of the committee that drafted the resolution and in our view we thought the last four lines covered it. I think all of you have read it, and it reads: "° ° °, and when so approved that the same be distributed by the Idaho State Bar Association to all members of the Idaho Bar and to all members of the next legislature, and that we urge the Idaho State Bar to make every effort to have each House of the Legislature authorize the use of the manual in the preparation of Bills." And it is my opinion that it does cover it.

MR. MOFFATT: That is why I made the inquiry. With the consent of the second, and it being so understood, I will withdraw my motion.

MR. ST. CLAIR: Does the second consent to the withdrawing of the motion?

MR. WARE: The second consents.

MR. ST. CLAIR: Is there any further discussion on the motion? All those in favor signify by saying Aye. Opposed No. The motion is carried.

MR. SMITH: The next resolution also has had wide circulation and it deals with the additional charge--the proposed charge of $2.00 to be added to dues membership to help finance The Advocate. The basic resolution is as follows:

Resolution No. 5

Resolved that the Idaho State Bar recommend the passage of the annexed resolution, relating to the continuation of the pnblication of The Advocate, by each of the local district bar associations.

This is what is annexed to the resolution adopted:

Whereas, The Advocate is presently published by the Idaho State Bar Foundation and mailed free of charge to each lawyer in the State of Idaho; and

Whereas, The Advocate is a self-supporting newspaper with respect to its printing and mailing costs by reason of the paid advertising carried therein, but the budget of The Advocate is by necessity appropriated entirely to such printing and mailing costs; and

Whereas, neither The Advocate, nor the Idaho State Bar Foundation, has funds to provide salaries for members of the staff of The Advocate, and the time and effort of the staff is presently donated; and

Whereas, The Advocate is deemed a publication of importance to all members of the bar of the State of Idaho, and it is felt that nominal compensation should be made to the staff of that paper for their time and efforts in its behalf;

Now, therefore, be it resolved that it should be proposed to each district and county bar association of the State of Idaho that beginning with the fiscal year beginning July 1, 1958, each district and county bar association of the State of Idaho shall increase its annual dues by the sum of $2.00, and that such additional annual dues be earmarked and contributed to the Idaho State Bar Foundation for the purpose of continuing and furthering the publication of The Advocate as the directors of the Foundation shall deem proper;

Resolved further that when the other bar associations of the State of Idaho agree to the proposal to increase annual dues by the sum of $2.00, this, the Third Judicial District Bar Association, shall, by the passing of this resolution, be deemed to have voted to so raise its annual dues beginning with its fiscal year beginning July 1, 1958.

That is the annex. This is the basic resolution:

Resolution No. 5

Resolved that the Idaho State Bar recommend the passage of the annexed resolution, relating to the continuation of the publication of The Advocate, by each of the local district bar associations.

Mr. President, I would so move the adoption of this resolution.

MR. HAWLEY: I second it.

MR. ST. CLAIR: You have heard the motion. Is there any discussion?

MR. MILLER: Mr. Presideut, I rise to a point of inquiry. What is the Idaho State Bar Foundation? I have never heard of that before and I have been around for years.

MR. ST. CLAIR: The Idaho State Bar what?

MR. MILLER: Foundation.

MR. ST. CLAIR: Contributions from lawyers to establish a fund for a nonprofit corporation to do things and to spend money that does not have to go through your state coffers or actually have approval of the state in order to expend it. Does that answer your question?

MR. MILLER: Well, good enough.

MR. ST. CLAIR: You have heard the question. This affects the government of the local bar associations, in my opinion. If anyone thinks to the contrary, I would like to hear from you. If not, we will vote by local bar associations.

MR. McNICHOLS: Mr. President, may I rise to another point of inquiry? Do I understand this will require each bar association to raise its dues by $2.00?

MR. ST. CLAIR: That is my understanding of the resolution.

MR. McNICHOLS: I am not at all sure that the members of the Clearwater Bar who are here are authorized to vote to raise the dues of the rest of the members. I wonder if that situation doesn't exist in other districts.

MR. ST. CLAIR: It only urges they do so.

MR. McNICHOLS: It only urges?

MR. ST. CLAIR: Yes.

MR. SMITH: Mr. President, as a matter of explanation, it was felt that this probably does not have the authority to govern the raising or lowering of the dues of the local bar associations, so that the only action that could be taken, in our opinion, by this body, was merely to recommend the adoption and then from there it will be entirely up to the respective organizations.

MR. RACINE: Mr. President, as I understand the resolution, the resolution is that there will be a contribution from each local bar and how they raise the contribution is entirely up to them, as I understand it. Is that not correct?

MR. SMITH: No, we are merely recommending that each of the bar associations adopt, or take a similar action as was taken by the Third Judicial District Bar.

MR. RACINE: The point is, it is money for The Advocate from the local bar. How they raise the money is their own local concern. Is that not true?

MR. SMITH: I would say that is entirely true. They can raise it any way they want to. It is merely a suggestion they do it in this manner.

MR. WARE: Mr. President, there is this serious problem in the Clearwater Bar Association. I do not know how it is in other bar associations, but with respect to local dues in our association, we have a substantial percentage of our members, (I can't say how many myself) but a gentleman sitting near me says nearly one-half of our lawyers, that is of the lawyers within the jurisdiction of the Clearwater Bar Association, and by rule are members of the district bar association, but almost half do not pay their dues. We have no power of collecting, suspension, expulsion, or any other method that I know of at present to enforce collection of local bar dues. I am not against the resolution—don't misunderstand me—except it makes a grave proposition for the Clearwater Bar District to be expected to present $2.00 per capita for its members resident within the district, regardless of whether or not they pay their dues.

MR. ST. CLAIR: It would seem to me, Mr. Ware, that would be an internal problem of your bar. On considering my former opinion, I am now convinced that it is a recommendation, and I could hardly see how it would affect the government of the local bar associations. Is there any further discussion? If not, all those in favor signify by saying Aye. Opposed No. Motion is carried.

MR. SMITH: Resolution No. 6, I wish to preface the resolution by saying it has to do with a continuing committee of the bar to work on procedural rules and this is the resolution:

Resolution No. 6

Whereas, Article V, Section 13, Idaho's Constitution recites that the Legislature shall provide "When necessary, the methods of proceeding in the exercise of their powers of all the courts below the Supreme Court, so far as the same may be done without conflict with this Constitution," and

Whereas, the Legislature by enactment of Chapter 90 of 1941 Session Laws, (now I.C., Sections 1-212 to 1-215), recognized and confirmed the inherent power of the Supreme Court to make rules governing procedure in all the courts of this State, and authorized the Supreme Court in the exercise of such power to appoint from among the district judges and the members of the Organized Bar such persons as it deems advisable to assist in the formulation of such rules, and

Whereas, the Supreme Court has exercised its rule making power governing procedure in all courts of this State by virtue whereof it no longer is necessary for the Legislature to provide methods of proceedings in the courts of this State, not in conflict with the Constitution, by its promulgation of Rules of Civil Procedure to take effect November 1, 1958, and

Whereas, the Supreme Court has authorized the appointment of a continuing committee and has suggested that it be composed of four district judges and three members of the Organized Bar, a total of seven, to serve as a Procedural Rules Committee to aid and assist the Court in formulation from time to time of Rules of Procedure.

Now, therefore, be it resolved that the Idaho State Bar through its Board of Commissioners select three members of the Organized State Bar and submit their names to the Supreme Court to be considered for appointment to such Procedural Rules Committee, each to serve as a member of such committee until his successor is appointed.

I would move the adoption of this Resolution No. 6.

MR. LARSON: Mr. President, I second the motion.

MR. ST. CLAIR: Is there any discussion? All those in favor signify by saying Aye. Opposed No. Motion is carried.

MR. SMITH: The committee had a report from the Committee on Re-Districting the Bar, the committee was appointed to study this problem. I think it best that I read the report first and then the resolution that we adopted and recommended. This is the Committee on Re-Districting of the Idaho State Bar.

Mr. Paul Ennis, Secretary
Idaho Bar Association
Boise, Idaho

Re: Committee on Re-Districting of the Idaho State Bar

Dear Sir:

In the latter part of May of this year, you requested that I act as chairman of a committee consisting of myself, James Cunningham of Twin Falls, and Richard Riordan of Nampa, to investigate the advisability of re-districting the divisions of the Idaho State Bar. At that time, you also requested that a report be made at the annual convention this year. In view of the shortage of time, the committee

was unable to arrange a personal meeting and our investigations and considerations have therefore been through correspondence.

The committee has studied the many problems involved in any proposed re-districting with the fundamental purpose of having as nearly as possible an equal number of attorneys in each district and each district geographically situated so that members of the entire district will be closely located to the commissioner. The committee felt that each commissioner should be as close to the attorneys he in effect represents as possible so that he would be readily accessible to each of them. A break-down of all of the attorneys in the State of Idaho by County was made and studied and your committee reports that it has been unable to devise a re-districting of the State which in the opinion of the committee would he an improvement upon the present system.

The committee members have discussed the problem with as many individual attorneys as possible but have not exhausted the possibilities. The committee has found the consensus of opinion of the individual members of the Bar contacted thus far to he that the present system is satisfactory and that no change should be made until it clearly appears that benefit would result therefrom. The members further indicated that they were very well satisfied with the overall operation of the Bar Association at this time.

This committee feels in view of the foregoing findings that if a recommendation were required at this time that it would be recommended that the present system be continued; however, your committee feels that a more exhaustive inquiry and study of the problem should be made and that each local Bar Association he given the opportunity to express its views on the subject.

This committee stands ready and willing to make this investigation and compile the information gained therefrom and report to the next annual meeting upon any possible improvement diseovered. The committee regrets that this report cannot be complete and final but believes that as much has been accomplished as time and the elements would permit.

Respectfully submitted,

R. H. COPPLE

And this is the resolution:

Resolution No. 7

Resolved that the report of the Committee on Re-Districting the Idaho State Bar be accepted and filed, and that the committee be thanked for its work and be discharged.

I would move the adoption of Resolution No. 7.

MR. ST. CLAIR: Is there a second?

MR. INGALLS: I second it.

MR. ST. CLAIR: Is there any diseussion? All those in favor signify by saying Aye. Opposed No. Motion is carried.

MR. SMITH: Now we have a series of resolutions emanating from the Committee on Unauthorized Practice of Law, of whieh Blaine Anderson was chairman. We have three such resolutions. I call your attention to the fact that these have been published in The Advocate as part of the annual report. This one was not, however; it is a resolution based on the report.

Resolution No. 8

Resolved that the Legislative Committee of the Idaho State Bar be instructed to draft and work for the passage of legislation, defining in detail, and prohibiting the use of simulated legal process, as the same appears in the sample of such proposed legislation in Exhibit No. 3 of the Annual Report of the Unauthorized Practice of Law Committee of the Idaho State Bar.

I call your attention to the fact that there is such a report in The Advocate on Page 12, and unless there is some request to have the matter read, having been published in The Advocate and distributed, I would move the adoption of this resolution.

MR. ST. CLAIR: Do I hear a second?

MR. Z. REED MILLER: I second it.

MR. ST. CLAIR: Any discussion?

MR. RACINE: What is meant by simulated legal process?

MR. ST. CLAIR: Mr. Smith.

MR. SMITH: I am going to call on Blaine to explain that.

MR. ANDERSON: I am not so sure I know either. It is a device, which you have, I am sure, all run into sometime in practiee which is used by a particular type of collection agency to attempt collection. It has the appearance of a pleading or some instrument emanating from a court. It is designed to, and very often does, mislead a layman, therehy depriving him of his right of counsel and his right to present defenses which he might have against such a claim or demand. The State of Florida and other states have adopted this law which we propose. Thus far we have had two collection agencies where such simulated process has been used but we believe for some categories of collcction agencies we need this law as a club over their heads. Does that answer your question?

MR. RACINE: Yes, thank you very much.

MR. ST. CLAIR: It will be necessary to vote by districts. Shoshone County Bar Association, 19 votes.

MR. MAGNUSON: Shoshone County Bar Association votes in favor of it.

MR. ST. CLAIR: Clearwater Bar Association, 63 votes.

MR. WARE: We vote in favor of it.

MR. MORGAN: I rise to a point of inquiry. The gentleman, Mr. Ware, has stated apparently over 50 per cent of their members are not in good standing, and I raise the question as to whether they have 63 votes.

MR. ST. CLAIR: We will accept your vote. Third District Bar Association, 180 votes.

MR. HAWLEY: Third District Bar votes Aye.

MR. ST. CLAIR: Fourth and Elevcnth District Bar Association, 78 votes.

MR. LARSON: The Fourth and Eleventh District Bar votes Aye.

MR. ST .CLAIR: Southeastern Bar Association, 71 votes.

MR. BISTLINE: Southeastern Bar votes Aye.

MR. ST. CLAIR: Sixth District Bar Association, 19 votes.

MR. ANDERSON: Sixth District Bar votes Aye.

MR. ST. CLAIR: Seventh District Bar Association, 50 votes.

MR. GIGRAY: Seventh District votes Aye.

MR. ST. CLAIR: Eighth District Bar Association, 50 votes.

MR. INGALLS: Eighth District Bar votes 50 votes in favor.

MR. ST. CLAIR: Ninth District Bar Association, 46 votes.

MR. HANSEN: Ninth District votes Aye.

MR. ST. CLAIR: Twelfth District Bar Association, 17 votes. (No response). The motion is carried.

(At this time a 10-minute recess was declared, after which the meeting was resumed).

MR. ST. CLAIR: At this time I would like to break the continuity of the resolutions by calling on Mr. Ennis to present a problem with reference to tipping.

MR. ENNIS: As you noticed on your program (at least I hope you did) we didn't collect this year any part of the registration fee for tipping, and we asked that you tip at your own discretion. I believe, however, the tipping has been quite light. I know that is true, particularly with the ladies' luncheon yesterday, and I think it was probably true at the banquet last night. Now, you can handle it any way you desire, of course. If you want them to, they will put a tipping charge on your bill. I recommend it, beeause we are going to be coming back here and it is always nice to have the people up here be as nice to us as they have been this time, and I can assure you that has been the case. Sun Valley and its employees have gone all out to cooperate with your arrangements committee, and have done everything very well, except for microphones, but I suppose that will happen any time.

MR. BURKE: I move we allow a tipping charge on our bill. I thought it was going to be added on the bill.

MR. ENNIS: A 10 per cent charge? That would be about $1.80 a day. I am sure, Mr. Burke, the employees would feel that a dollar per day would be more than adequate.

MR. BURKE: Whatever you think would be adequate.

MR. MOFFATT: I second the motion. I read the program but will still second the motion.

MR. ENNIS: Mr. Chairman, there is a motion over here.

MR. ST. CLAIR: Is there a second to the motion?

MR. MOFFATT: I second the motion.

MR. ST. CLAIR: Any further discussion? The motion is we add a reasonable tip to the bill of each member of the bar, let the hotel do it, and it is recommended it be $1.00 a day. All those in favor signify by saying Aye. Opposed No. The motion is carried.

MR. SULLIVAN: Wouldn't it be possible next year to go back to the old system rather than taking it up this time when perhaps a substantial number of tips have been paid already?

MR. ST. CLAIR: I am sure that Mr. Ennis will take care of that for you.

MR. ENNIS: May I answer your question? It can't be done as it has in the past because Adolph Rubicek says it gets them into difficulties on an income tax basis and they can't let us collect the tipping charge and pay it to Sun Valley. They can do it, for reasons I don't understand, the way they propose to do it, make the individual charge on each bill, and what difference it makes, I am sorry I can't tell you, but he said for tax purposes they can't handle it as they have in the past.

MR. ST. CLAIR: Does that answer your question, Mr. Sullivan?

MR. SULLIVAN: Apparently, yes.

MR. ST. CLAIR: Mr. Smith.

MR. SMITH: Resolution No. 9 also emanates from the annual report of the Unauthorized Practice of Law Committee, of which Blaine Anderson is chairman.

Resolution No. 9

Resolved that the Legislative Committee of the Idaho State Bar draft and work for the passage of legislation making it unlawful for any person to seek or solicit personal injury or death claims for the purpose of instituting suit thereon, either within or without the State, as the same appears in the sample of such proposed legislation in Exhibit No. 4 of the annual report of the Unauthorized Practice of Law Committee of the Idaho State Bar.

By way of explanation, may I add this is not directed at lawyers; it is directed at lay people who would be acting as such solicitors and the program as outlined in Exhibit No. 4 has been included in The Advocate, and unless somebody would like to have that read, it appears on Page 12, I would, Mr. Chairman, move the adoption of this resolution.

MR. HAWLEY: I second it.

MR. ST. CLAIR: Is there any discussion?

MR. BURKE: Isn't that already provided for to go out here and solicit law business?

MR. SMITH: Apparently your committee felt that it was not sufficiently defined and there is under consideration, I believe it is a Wyoming statute, as shown in Exhibit No. 4, which more specifically defines it, isn't that correct, Mr. Anderson?

MR. ANDERSON: Yes, there is no provision covering a layman who engages in ambulance chasing. That is, in effect what this is designed to strike down.

MR. MOFFATT: Mr. Chairman, do I understand this is limited to personal injury cases?

MR. SMITH: Personal injury or death claims for the purposes of instituting suit.

MR. MOFFATT: May I ask then, why it is necessary to limit it to a specific type of legal litigation or legal business? Frankly, I have in mind a few years ago your Commission, I think, adopted a resolution that it was an unlawful practice of law for fiscal agents to make contracts with municipal—under the Municipal Corporation Law it was held illegal to do business with school districts or similar people for the drafting of bond proceedings, for instance and that is done all the time—people from Salt Lake who do all the legal work, and elsewhere, and I can't see why this resolution should be directed specifically to one particular type of litigation. I think I know what you are driving at, I think I know the background of it—it comes out of Illinois—and to be perfectly candid, the union activities that recently have been in the Illinois Supreme Court. I can't see why it should be directed to one particular type of solicitation for legal business. It seems to me it should be illegal for any lay organization to contract to practice law, which is exactly what they are doing.

MR. MORGAN: It would appear to me that by leaving it for the purpose of instituting a suit perhaps there are more limitations than we want. Many of these things are handled short of suit.

MR. ST. CLAIR: Mr. Anderson.

MR. ANDERSON: I think the objection is probably well taken. It is perhaps limited, unless this is a valid explanation. Under the bonding problem which was mentioned, we can get at that through the unauthorized practice of law, that is, through the intent provisions of our Code, Sections 3-104 and 3-401; however, using a labor union as an example, they send out a runner merely to solicit these claims; he is not actually practicing law, and not engaging in unauthorized practice of law. He is merely gathering up business for a lawyer. Now, if a lawyer is a party to that, you can get at him by disbarment or other proceedings. Perhaps the reason it is limited to personal injury and death claims is that that has been the area of the greatest infraction. It probably is well taken and should be extended to other areas.

MR. ST. CLAIR: Is there any further discussion?

MR. HULL: May I ask, Mr. Anderson, if this was intended to cover Workmen's compensation in death cases or personal injuries?

MR. ANDERSON: Frankly, I don't think we got into that question; it was never raised.

MR. EBERLE: I move we amend this motion to include all types of legal actions.

MR. ST. CLAIR: Is there a second to the amendment?

MR. LOWE: I second it.

MR. HAMILTON: I wonder if we amended that to include all types of actions how it would affect organizations like credit bureaus, Dun & Bradstreet, and that sort of thing, who actually solicit, in the first instance, collection business, and eventually may turn it over to attorneys for filing suit in district or probate court.

MR. EBERLE: Perhaps the motion makes it clear in that it states for the purpose of bringing an action, is that correct?

MR. ANDERSON: That is correct.

MR. HAMILTON: They are entitled, are they not, at least in small claims courts to bring actions, the credit bureaus?

FROM THE FLOOR: They are doing it all the time.

MR. ST. CLAIR: Any further discussion?

MR. RACINE: I wonder, Mr. President, if we could not have that resolution, as it stands, without the amendment, read once more.

MR. ST. CLAIR: Re-read the resolution.

MR. SMITH: This is the resolution:

RESOLUTION NO. 9

Resolved that the Legislative Committee of the Idaho State Bar draft and work for the passage of legislation making it unlawful for any person to seek or solicit personal injury or death claims for the purpose of instituting suit thereon, either within or without the State, as the same appears in the sample of such proposed legislation in Exhibit No. 4 of the annual report of the Unauthorized Practice of Law Committee of the Idaho State Bar.

If the membership would like, I would be pleased to read Exhibit No. 4, which is quite short, and it may be of help. Would you like it read?

FROM THE FLOOR: Yes.

MR. SMITH: This is the Wyoming Compiled Statutes, 1945, Secs. 9-646 and 9-647.

"Sec. 9-646. That it shall be unlawful for any person, with the intent or for the purpose of instituting a suit thereupon outside of this state, to seek or solicit the business of collecting any claims for damages for personal injury sustained within this state, or for death resulting therefrom, in cases where such right of action rests in a resident of this state, or his legal representative, and is against a person, co-partnership or corporation subject to personal service within this state.

"Sec. 9-647. Any person violating any of the provisions of Section 1 (9-646) of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00), or shall be imprisoned in the county jail not less than ten (10) days nor more than six (6) months, or by such fine and imprisonment at the discretion of the court."

MR. SULLIVAN: Mr. Chairman, it would appear that the resolution, as originally drafted, without the amendment, covers the field in which the greater infractions occur. I am afraid that if the amendment were adopted to cover all types of litigation, without serious consideration and study of the effect of it, it might get us into a position where we have a statute which would get us involved in a lot of other fields and might destroy even the effect of the original amendment. I think that, with the amendment, as proposed, without further study might be pretty dangerous.

MR. ST. CLAIR: Any further discussion? You have heard the amendment.

MR. EBERLE: I will withdraw the amendment at this time.

MR. ST. CLAIR: Will the second consent to withdrawing the amendment?

MR. LOWE: Yes.

MR. ST. CLAIR: Any further discussion on the motion? Tbis affects legislation so it will be necessary to vote by bar districts. Shoshone County Bar Association, 19 votes.

MR. MAGNUSON: Shoshone County Bar Association votes Aye.

MR. ST. CLAIR: Clearwater Bar Association, 63 votes.

MR. WARE: 63 votes in favor of the resolution.

MR. ST. CLAIR: Third District Bar Association, 180 votes.

MR. HAWLEY: Third District Bar votes Aye.

MR. ST. CLAIR: Fourth and Eleventh District Bar Associations, 78 votes.

MR. LARSON: Fourth and Eleventh District Bars vote Aye.

MR. ST. CLAIR: Southeastern Bar Association, 71 votes.

MR. BISTLINE: 71 votes Aye.

MR. ST. CLAIR: Sixth District Bar Association, 19 votes.

MR. ANDERSON: Sixth District votes for it.

MR. ST. CLAIR: Seventh District Bar Association, 50 votes.

MR. GIGRAY: Seventh District Bar votes 50 votes Aye.

MR. ST. CLAIR: Eighth District Bar Association, 50 votes.

MR. INGALLS: Eighth District Bar votes 50 in favor.

MR. ST. CLAIR: Ninth District Bar Association, 46 votes.

MR. HANSEN: Ninth District Bar votes Aye.

MR. ST. CLAIR: Twelfth District Bar Association, 17 votes. Is there a representative from the Twelfth District (No response). The motion is carried.

MR. SMITH: Resolution No. 10 also appeared in The Advocate and this also comes from the Committee on Unauthorized Practice of the Law.

Resolution No. 10

"RESOLUTION ADOPTING STATEMENT OF PRINCIPLES ON UNAUTHORIZED PRACTICE OF LAW BY COLLECTION AGENCIES.

"Whereas, the Idaho Collectors Association, in convention duly assembled at McCall, Idaho, on the 11th day of April, 1958, adopted the annexed Statement of Principles and Policies Governing Attorneys and Collection Agencies and caused the same to be executed by the President and Secretary of said Association, and

"Whereas, the Standing Committee on Unauthorized Practice of the Law of the Idaho State Bar, has and does now recommend the adoption of said Statement by the members of the Idaho State Bar, as being in the public interest;

"Now, therefore, be it hereby resolved:

"That said Statement of Principles and Policies be, and the same is hereby adopted by the Idaho State Bar and the President and Secretary of this organization are hereby authorized and directed to execute the same for and on behalf of the members of the Idaho State Bar and to notify the appropriate officers of the Idaho Collectors Association of its approval, adoption and execution.

"STATEMENT OF PRINCIPLES AND POLICIES GOVERNING ATTORNEYS AND COLLECTION AGENCIES.

"Whereas, for the protection of the public and in aid of the administration of justice, the practice of law in Idaho bas by the courts and legislatures been delegated and restricted to attorneys at law who are members of the Idaho State Bar, and

"Whereas, collection agencies are licensed under the laws of the State of Idaho for the purpose of the collection of certain debts and accounts for compensation, and

"Whereas, the courts have determined that certain acts performed by collection agencies constitute the unauthorized practice of law,

Now, therefore, for the purpose of clearly defining what constitutes unauthorized practice of law by collection agencies, the Idaho State Bar Association, acting through its committee on unauthorized practice of law but subject to adoption by the members of the Bar at its annual meeting and the Idaho Collectors Association, acting at its annual membership meeting, hereby agree to the following principles and rules:

ARTICLE I

"Members of the Idaho State Bar Association in all matters involving the practice of law are bound by the Canons of Professional Ethics adopted by the American Bar Association.

ARTICLE II

"It shall be improper for a collection agency:

"(1) To furnish legal advice or to perform legal services or to represent that it is competent to do so; or to institute judicial proceedings on behalf of other persons.

"(2) To communicate with debtors in the name of an attorney or upon the stationery of an attorney; or to prepare any forms of instrument which only attorneys are authorized to prepare. Such forms shall include, but not be limited to, the following: Complaint, Affidavit for Attachment, Writs, Garnishments, Instructions to Sheriffs, Constables or levying officers, Releases of Attachment, Stipulations, Notes of Issue, Judgments, Executions, Requests for or orders on supplementary proceedings.

"(3) To solicit and receive assignment of any claims for the purpose of suit thereon.

"(4) In dealing with debtors to employ instruments simulating forms of judicial process or forms of notice pertaining to judicial proceedings or to threaten the commencement of such proceedings.

"(5) To solicit claims for the purpose of having any legal action or court proceedings instituted thereon, or to solicit claims for any purpose at the instigation of any attorney.

"(6) To assume authority on behalf of creditors to employ or terminate the services of an attorney or to arrange the terms or compensation for such services.

"(7) To intervene between creditor and attorney in any manner which would control or exploit the services of the attorney or which would direct those services in the interest of the agency.

"(8) To demand or obtain in any manner a share of the proper compensation for services performed by an attorney in collecting a claim, irrespective of whether or not the agency may have previously attempted collection thereof.

ARTICLE III

"Collection agencies should not:

"(1) Appear as Assignee-Plaintiff in any claim or delivery or replevin action or in an action for damages for breach of contract, or accept assignment of such claim until the claim has been reduced to written contract to pay or to judgment; nor solicit or accept as assignment for collection of a subrogation claim until reduced to written contract to pay or to judgment; nor of a claim which shall include as part of the services to be performed the preparation or filing or foreclosure of a Mechanic's Lien, or the giving of any legal advice relating thereto.

"The foregoing principles and policies were adopted at the Annual Membership Meeting of the Idaho Collectors Association at McCall, Idaho, this 11th day of April, 1958."

I would move, Mr. President, the adoption of the resolution.

MR. ST. CLAIR: Is there a second?

MR. MAGNUSON: I will second it.

MR. ST. CLAIR: Any discussion?

MR. HAWLEY: With all due respect to Mr. Anderson and his committee, and to the Resolutions Committee, and also with the memory that I voted for this thing yesterday, I am changing my mind now. I think, actually, the way I feel about collection agencies, the fact that we are recognizing them here is, to my way of thinking, an undignified position for the Idaho State Bar Association to take.

Now, what has been read here and what was adopted, and I believe Mr. Anderson was there at the convention of the collection agencies last June, is merely a statement of principles that we are governed by, and we know we are governed by those principles, and they are part of our Canon of Ethics of the Bar Association, and for collection agencies to violate those principles is something that is a violation of law, actually, on their own part. As far as I am concerned, why, even to recognize the collection agencies here in this association is a mistake, and an undignified thing for us to do, so I am changing my mind on this.

MR. ST. CLAIR: Any further discussion? I believe this affects bar policy.

MR. ANDERSON: I merely wanted to say that this was never intended to be a cure-all for all problems we might have with collection agencies. It is part of an overall program to educate lay groups, that is the primary purpose of the proposal. The collectors wanted to go this far, they wanted to appoint a committee to air disputes, and at that time we felt we did not want to go quite that far with them and settled for this only. This does not bind us to anything except to abide by the canons of professional ethics and it does bind them to a good many things.

MR. ST. CLAIR: Any further discussion?

MR. CHALFANT: I think it also spells out for collectors just what the canons of the American Bar Association hold, and what we believe; therefore, it is a good thing for them to have reference to and to spell out and define these principles.

MR. BRESHEARS: Mr. President, that resolution that has been read and adopted by the collectors is their own resolution. That is their own business. As Jack said, we know what we are bound by, why should we meddle in their business? They have made a statement of principles. If they adhere to those principles, well and good. We are not going to help them a bit by adopting a resolution here approving something they have done.

MR. ST. CLAIR: Mr. Anderson, was this resolution adopted by that agency expecting us to reciprocate?

MR. ANDERSON: Yes, this particular resolution was actually heard by the Unauthorized Practice of Law Committee after they had adopted this on the floor at their annual meeting. I might say, it is a plan on the part of the officers of the collectors association—part of their plan, to elevate their group and to eliminate the fly-by-night—the undesirable collector, and I think that no harm would come in adopting it and much good would come. It is backed by the American Bar Association; many states have adopted similar principles and in a few cases we have spoken about them and condoned them and praised them.

MR. ST. CLAIR: You mean many state bar associations?

MR. ANDERSON: Yes.

MR. ST. CLAIR: Any further discussion?

MR. MORGAN: Mr. President, I wonder if we couldn't better simply pass a resolution commending the collection association for the adoption of their resolution and principles.

MR. ST. CLAIR: Any further discussion?

FROM THE FLOOR: Question.

MR. ST. CLAIR: You have heard the question. You will vote by bar districts. Shoshone County Bar Association, 19 votes.

MR. MAGNUSON: Votes Aye.

MR. ST. CLAIR: Clearwater Bar Association, 63 votes.

MR. WARE: Votes Aye.

MR. ST. CLAIR: Third District Bar Association, 180 votes.

MR. HAWLEY: Third District Bar votes No.

MR. BURKE: Now just a minute here. I request you poll this delegation.

MR. ST. CLAIR: Will you poll the delegation and will any other delegation that needs polling do so now?

MR. ST. CLAIR: Fourth and Eleventh District Bar Association, 78 votes.

MR. LARSON: Mr. President, Fourth and Eleventh Judicial District Association votes Aye.

MR. ST. CLAIR: Southeastern Bar Association, 71 votes.

MR. BISTLINE: Southeastern Bar votes Aye.

MR. ST. CLAIR: Sixth District Bar Association, 19 votes.

MR. ANDERSON: Sixth District votes Aye.

MR. ST. CLAIR: Seventh District Bar Association, 50 votes.

MR. GIGRAY: 50 votes, Aye.

MR. ST. CLAIR: Eighth District Bar Association, 50 votes.

MR. INGALLS: Eighth Judicial District having polled the delegation and being bound by the unit rule votes 50 votes in favor.

MR. ST. CLAIR: Ninth District Bar Association, 46 votes.

MR. HANSON: Ninth District Bar, 23 Yes and 23 No.

MR. ST. CLAIR: Twelfth District Bar Association, 17 votes. (No response). Is the Third District Bar ready to vote?

MR. HAWLEY: The Third Judicial District Bar Association, being bound by the unit rule votes No.

MR. ST. CLAIR: 180 votes No. The motion is carried, 377 for, 203 against.

MR. SMITH: This is Resolution No. 11.

Resolution No. 11

Resolved that a committee be appointed by the Idaho State Bar Commission to collaborate with the State Bankers Association in making a study of the Uniform Commercial Code, and to make a report thereon at the next annual meeting.

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

MR. LARSON: I second it.

MR. ST. CLAIR: Any discussion? All those in favor vote Aye. Opposed No. Carried.

MR. SMITH: This is Resolution No. 12.

Resolution No. 12

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

Mr. President, I move the adoption of the resolution.

MR. ST. CLAIR: You have heard the resolution. Any diseussion?

MR. ANDERSON: I second it.

MR. ST. CLAIR: All those in favor vote Aye. Opposed No. Carried.

MR. SMITH: This is Resolution No. 13.

Resolution No. 13

Whereas, the Bobbs-Merrill Company, the Mathew-Bender Company, the West Publishing Company, the Bancroft-Whitney Company, Caxton Printers, and the Voter Publishing Company have courteously donated various legal publications for door prizes at this annual meeting, be it resolved that the Idaho State Bar extend its thanks and appreciation to these companies for their generous prizes which contributed to the interest of those attending the convention.

I move the adoption of the resolution.

MR. ST. CLAIR: Is there a second?

MR. LARSON: I second it.

MR. ST. CLAIR: You have heard the motion. All those in favor vote Aye. Opposed No. Motion is carried.

MR. SMITH: This is Resolution No. 14:

Resolution No. 14

Be it resolved that the Idaho State Bar extend to United States Supreme Court Justice Tom C. Clark; Hon. Charles Rhyne, President, American Bar Association; John Ben Shepperd; John C. Satterfield; Justice E. B. Smith; Philip S. Habermann; Luther Bang, and Gov. Robert E. Smylie, their most sincere thanks and grateful appreciation for honoring us by their personal appearances at our annual meeting and delivering to us their inspiring, interesting, and instructive addresses.

I move the adoption of this resolution.

MR. GIGRAY: I second it.

MR. ST. CLAIR: Any discussion? You have heard the motion. All those in favor vote Aye. Opposed No. Motion is carried. Thank you very much, Mr. Smith. (Applause).

At this time I would entertain a motion approving the President's Report, as published in The Advocate, and approving the Secretary's Report. May I have that motion?

MR. REEVES: I so move, Mr. President.

MR. RACINE: I second it.

MR. ST. CLAIR: Any discussion? All those in favor vote Aye. Opposed No. Motion is carried.

MR. ST. CLAIR: We would like to have a report from the Prosecuting Attorney's section. Who is to give that report?

MR. PIKE: It looks like I am the only one left.

MR. ST. CLAIR: Would you come forward and give the report, Mr. Pike?

MR. PIKE: Mr. President, the Idaho Prosecuting Attorney's Association wishes

to convey to the State Bar our resolution that, if the report of the State Bar Committee appointed for the consideration of the revision of the criminal code is favorable, then we go on record as approving the favorable report.

MR. ST. CLAIR: Is there a report from the Judicial Conference. (No response). I take it there is none.

I would like, at this time, to commend Sid Smith and his Resolutions Committee for the very excellent job they did this year.

Mr. Ennis, do you have anything further? Does anyone have anything further to bring before the Commission?

MR. HAWLEY: Mr. President, there is one resolution I would like to present to the group at this time. As a little background on it, you all know who the editor of The Advocate is, Alice Johnson, who is an attorney in Boise. She has been editing that publication completely on a voluntary basis, completely without pay, free gratis. She has put in an awful lot of time, and a tremendous amount of effort on it, and really, I think, shows excellent ability. We are very, very lucky to have her willing to do this job and so I would resolve right now that the Idaho State Bar Association extend its thanks for the very fine, excellent job that Mrs. Alice Johnson has done for her work and time and effort put in on editing The Advocate during the past year.

MR. ST. CLAIR: Is there a second to the motion?

MR. ROBERTSON: I second the motion.

MR. ST. CLAIR: You have heard the motion. Any discussion? All those in favor say Aye. Opposed No. Motion is carried.

MR. LARSON: At the meeting held in Boise concerning the new rules of civil procedure we came to know and love Judge Murrah. I understood at that time there was to be some action taken at the annual meeting with respect to making him an honorary member of the Idaho State Bar. If that procedure is possible, I do move, Mr. President, that the Honorable Alfred P. Murrah be made an honorary member of the Idaho State Bar Association.

MR. ST. CLAIR: Before there is a second I would like to express a few remarks.

Judge Murrah asked me to have the motion made at the other meeting, or any other motion put before this body, quashed. He did not want it. There were other states that tried to do it; he said it embarrasses the bar; it embarrasses him. He appreciates the honor which was conferred on him and I believe Mr. Ware made the same motion at Boise, and he talked to Judge Murrah and he withdrew the motion at that time.

I have an announcement to make in just one second. Those of you who want to play golf should register with John Gunn, and those of you who wish to shoot traps this afternoon should register with Louis Racine. The prizes will be awarded tonight at the dinner.

MR. McDEVITT: I assume there is no motion on the floor at the present?

MR. ST. CLAIR: There has been no second.

MR. McDEVITT: A point of inquiry. What is the number of the resolution relating to the Idaho State Bar and the collection agencies?

MR. ST. CLAIR: Resolution No. 10.

MR. McDEVITT: Mr. Chairman, I move that Resolution No. 10 be not spread upon the minutes, published nor released, until such time as the officers of the Idaho Collection Agency exhibit substantial evidence to the Unauthorized Practice of Law Committee that they are able to control their membership to the appearance of the terms of that resolution.

MR. ST. CLAIR: Is there a second to the motion?

FROM THE FLOOR: I second the motion.

MR. ST. CLAIR: I should have said that the other motion was lost for want of a second. This motion has been moved and seconded. Is there any other discussion?

MR. ROBERTSON: Mr. President, I suggest that motion is out of order. We have adopted this resolution and we have got our minutes to show what we did.

MR. ST. CLAIR: I believe you are correct and I will so rule that it is out of order. The other motion is passed with nothing in it as to the time of release. You have the option of reconsideration of the motion.

MR. McDEVITT: I will waive my right to appeal the ruling of the chair.

MR. ST. CLAIR: Anything further?

MR. GEE: Mr. Chairman, at the last meeting of the Southeast Idaho Bar Association a motion was made that the State Bar Association appoint a committee of our association to study the advisability of requiring a legal internship of from nine months to one year as a condition to practicing law in the State of Idaho, after the completion of the prescribed course of study in a school to be approved. I don't know whether you want any further discussion on it at this time, except the motion was made at that meeting and I would like to make the motion before this membership.

MR. ST. CLAIR: Do you have that resolution in writing?

MR. GEE: It was reduced to writing but lost in the mail.

MR. ST. CLAIR: Is there a second to that motion? The motion has been lost for want of a second. Is there anything further?

At this time I would like to thank the bar for permitting me to act as your commissioner. I have enjoyed it immensely, and am deeply humbled and gratified. I, of course, have received much more from my services as commissioner than I will ever give back to the Bar.

I would like to introduce your new president at this time, who is the alpha of the judges. Next year you will have the omega, who will be Judge Bellwood. I have enjoyed working with the Commission. Sherm, Judge Spear and Paul Ennis all have given me great aid and I know they will do a wonderful job for you this coming year. (Applause).

JUDGE SPEAR: Thank you very much for that display of courtesy, ladies and gentlemen. Thank you for those kind remarks, President St. Clair.

I appreciate this honor. I think that ever since I first served as a member of the grading committee, or the examiners, as it is known—and I wasn't a member

at that time, just merely a substitute in 1946, either consciously or unconsciously I have been striving for this, so I feel pretty good that I made it.

It has been a real privilege for me to have served with my immediate two predecessors in this position, Willis Sullivan and Gilbert St. Clair, and it makes it mighty tough for anyone to follow them, because of their extreme capability and effectiveness as bar leaders. But I am going to do the best I can; I am not going to worry about it. We have got the plan rolling now, we are going to keep it rolling as best we can. I am especially pleased, of course, with the members which you have given to serve with me on this commission.

Judge Bellwood and I are old-time friends; we went to school together. I want to especially thank the attorneys from the Eastern Division for sending us a man as capable as Blaine Anderson, who is the third member of the Commission. Blaine has proved himself without question this year as the Chairman of our Unauthorized Practice of Law Committee. As you could see by the very resolutions which were presented today, that committee has been active. Not only have they done the matters that were exhibited in these resolutions, but they have looked into them and prepared them, all of which took a lot of time.

They represented us once in the Federal Court in which it was contended that an attorney outside of the State was not entitled to practice in the Federal Courts of Idaho without associating with him an Idaho attorney. They were successful. Judge Murphy, sitting in Boise at the time, held with us.

They also represented us in a very nasty little matter of unauthorized practice of a former probate judge in Southeastern Idaho. It was a very distasteful duty, but they performed it. We are not too sure yet of the success or failure of it, but that is neither here nor there. As far as the performance on the part of the committee, they have performed well, and Blaine Anderson is responsible for a large part of it. He has also served with us as a member of the grading committee, so he is not a stranger to this business and I am sure he is going to be a mighty efficient cog in this machine.

We are not going to, so far as I am concerned, make any drastic changes or innovations. The program that has been set forth in the last two years by President Sullivan and President St. Clair is a good, substantial and sound one.

Our only job, as I see it, is to carry forth with that same program. There are some things that need to be done yet. We are going to place some emphasis on a program that is rather near and dear to my heart, as well as my immediate predecessor, and that is to continue the legal education program. He has laid the ground work. We are going to do what we can to carry forward a plan where we can get some system in effect here comparable to the one, on a smaller scale, of course, in effect in California that is being so effective.

We are meeting this afternoon—the new board is, the other members perhaps don't know that yet, but we have called a meeting for 1:30, the first one of this next year. At that time we are going to take up some of our budget problems, and Professor Herbert Berman, who has replaced Tom Walenta on that Continuing Legal Education Committee, is going to meet with us. We are going to give him every possible financial assistance to get this program going as it should be, because we are convinced--the old commission, and I know Blaine will agree with us, that that is one area where we can give something concrete to the attorneys in this state for their $25 that they pay in here each year on dues. That is

going to be our main effort, to show you ladies and gentlemen that we are performing a service for you. You have hired us for the job. We are going to get it done as best we can.

Many of our standing committees have done outstanding work this year. We have a system now that many of you perhaps do not understand. I thought I would explain it. There are about 12 or 14 of these standing committees, such as the Unauthorized Practice of Law Committee, Public Relations Committee, and the like. We have a system now, which is rather recent, where most of those committees have a membership of only three, and one from each of the three divisions of our bar, and when you appoint a man to a committee he is appointed for three years. He serves two years as a member and the third year he moves up as chairman, then if he wishes to serve more and the commission feels his previous service warrants it, he can be reappointed for another term of three years, so we have kind of a continuance to our program as laid out by our standing committees.

A special committee we have is the one on legislation, and I want to pay special tribute to that committee. We are going to ask them for some more work this year. Nearly every one of them--I think all of them, I should have brought the roster but I didn't--I think every one of them comes from the Third District Bar, and the time and effort those gentlemen spend on this is just really something, as many of you may know. Some of you went down and assisted them a week at a time the last session. Whether or not that program will be carried out, I don't know. We will take it up at the next meeting this afternoon. But if those same gentlemen wish to, we are going to appoint them again to assist us in this legislation. I have one suggestion on that, however. Many of the resolutions we have here, (and some are carried over from last year's session) require legislative action. Of course, it is my job as president of this—it is my responsibility to see that that is carried out. We must do it, however, through this legislative committee. But I feel this, and I feel it very strongly, that if there is any way possible we can get the legislative committee to draft proposed legislation early in the session, and by early I mean, say, by the first of October—we know right now the mandate that has been given us by this assembly that they could prepare those bills prior to the first of October, get them out to the local bars so they can be studied and so they know what our legislative program is, and then rely on the local bars and individual members to sell that program to their own individual legislators in their own counties before they ever get to that hodge-podge which is called the legislature at Boise. If we can sell them on our program before they get there, and preferably before they are elected, it is going to be of great benefit to us when the legislation comes before them later on in the year.

Now, as I said, our committees have been working very efficiently. We are going to try to give them every assistance we can from a commission level and as much financial assistance as we can on a commission level.

I think that the Resolutions Committee worked very effectively this year because we now have the system devised, and it is the first time it has been tried, to my notion, of having the local bar presidents coustitute or comprise the Resolutions Committee. Next year we are going to try to put in effect a rule or regulation that any of these written resolutions on important matters must be submitted to that committee or its chairmau not later than June 1, so they can be distributed to the local bars, the local bars can act on them, and then when these gentlemen come down, perhaps the morning before the regular session

starts, they can go through them, get them out of the way, and anything in the way of an emergency measure that has arisen in the meantime can be taken up on resolution from the floor. But the system worked so well this year we are going to try it next year and perhaps improve on it. But this business of being so efficient and so effective reminds me that perhaps it can be carried too far, as is evidenced by a little matter here that a gentleman presented at the Atlanta Mid-Winter session of the American Bar.

He said that a work study engineer or efficiency expert was engaged by a symphony orchestra to see if he could improve on the efficiency and operation of it, and this was his report:

"For considerable periods the four oboe players had nothing to do. The number should be reduced and the work spread more evenly over the whole of the concert, thus eliminating peaks of activity.

"All the twelve violins were playing identical notes. This seems unnecessary duplication. The staff of this section should be drastically cut. If a larger volume of sound is required, it could be obtained by electronic apparatus.

"Much effort was absorbed in the playing of demi-semi-quavers; this seems to be unnecessary refinement. It is recommended that all notes be rounded up to the nearest semi-quaver. If this were done, it would be possible to use trainees and lower-grade operatives more extensivly.

"There seems to be too much repetition of some musical passages. Scores should be drastically pruned. No useful purpose is served by repeating on the horns a passage which has already been handled by the strings. It is estimated that, if all redundant passages were eliminated, the whole concert time of two hours could be reduced to twenty minutes, and there would be no need for intermission.

"The conductor agreed generally with these recommendations, but expressed the opinion that there might be some falling off in box-office receipts. In that unlikely event, it should be possible to close sections of the auditorium entirely, with a consequent saving of overhead expenses, lighting, attendants, etc. If worse came to worst, the whole thing could be abandoned, and the public could go to the gymnasium instead."

So, as I said, this sort of thing can be carried too far. We will try not to carry it to that degree.

Now, ladies and gentlemen, is there anything else to come before this meeting? If not, I will entertain a motion that we adjourn.

MR. RACINE: Mr. President, I move we spread on the minutes a resolution extending our appreciation and thanks to Mr. St. Clair for his service as president during the past year.

JUDGE SPEAR: Is there a second?

MR. GIVENS: I second the motion.

JUDGE SPEAR: Any discussion? All those in favor say Aye. Those opposed say No. You have made it. Let's give him a standing ovation. (Applause).

JUDGE SPEAR: I would be glad to entertain a motion for adjournment.

MR. WARE: I move we adjourn.

JUDGE SPEAR: Is there a second?

FROM THE FLOOR: I second the motion.

JUDGE SPEAR: All those in favor saye Aye. Opposed No. Motion is carried. If there is nothing further, the meeting is adjourned sine die.

APPENDIX

PRESIDENT'S REPORT

Your Commissioners are satisfied that the Annual Meeting of the Idaho State Bar has been more effectively and expeditiously administered and that the practice is approved by a great majority of the Bar's members since the reports of the President, Secretary and of all Committee Chairmen have been delivered through the Bar publication and appended to the Annual Proceedings rather than being delivered in person at the Annual Meeting. By this method time has been preserved for the technical and talented speakers, and the Saturday morning session can be devoted to the serious business needed for resolutions and for considering the ever-present and unexpected matters that arise. In keeping with our plan to make the Annual Meeting a vacation for our families, we have also been able to utilize Thursday morning for arrival, registration and renewing acquaintances and Friday afternoon for pleasure, relaxation, sports and "do-as-you-please."

I would be remiss if I failed to mention with deep appreciation and nostalgia the pleasant working association I have enjoyed with the other Commissioners during my term—Russell Randall, Willis Sullivan, Clay Spear, and Sherm Bellwood. While a member of the Crading Committee for three years previous to my term, I was fortunate in working closely with past Commissioners—Claude Marcus, Bob Brown, Tim Robertson and Louis Racine.

An integral and important part of our Bar Commission work is preparing and grading Bar examinations. It is through service on this Commmittee and membership on Standing Committees that most Bar members become interested in Bar work to the extent of running for the office of Commissioner. Each Commissioner appoints two members of the grading team from his district to serve during his term. I thank Bill Furchner and George Phillips for accepting appointment and for their time and work for the Bar. A grading session takes two to four days twice a year, sometimes days of the working week. The grader serves without remuneration and in many instances without complete reimbursement for expenses. This has been especially true this year, as our practice has been to grade in each district in order to save funds and thereby to finance other Bar Committee meetings. I also thank Kent Naylor and Blaine Anderson for their grading as substitutes when Bill or George was unable to be present. I urge all younger members of the Bar to volunteer for Committee appointments and can assure each one who does that he will be amply repaid through the interesting work and the close association with those members of the Bar who are contributing their time and ideas.

I personally thank all of the Chairmen of Committees and Committee-members for the able assistance rendered the Commission and the Bar during the past year. Most of their reports will be printed in The Advocate or in the Proceedings of the Annual Meeting. The following is a list of some of our committees and the chairmen and members thereof. It does not include the names of lawyers who have responded to a call to give service with disciplinary matters by investigating, prosecuting or those who have sat on Special Committees. It is not possible to name them, but my thanks on behalf of the Commission is no less sincere.

The work of Paul Ennis, our Secretary, is known to and appreciated by every member of our Bar. One must work with Paul, however, as your Commissioners do, to understand fully how valuable he is to the Bar and what a deep loss will occur to the Bar if he should decide to terminate his employment as Secretary.

In view of reports given by Committee Chairmen, I will merely refer generally to those phases of Commission work.

Committee on Continuing Legal Education

Thomas R. Walenta, Chairman; Wesley F. Merrill; Raymond D. Givens.

On this Committee the term of membership is staggered and a junior member is appointed each year. The Committee and Commission have continued the fall Institute in Moscow in conjunction with the University of Idaho Law School. We believe this to be imperative from the adult education standpoint for all members of the Bar, and particularly those attorneys in North Idaho, and also for a closer association between the Bar and the Law School students and faculty. The Bench and Bar holds its annual banquet and dance with the Institute's banquet, and this joinder has cemented the Bar relationship with the Law School. I sincerely hope this is continued.

At two Interstate Bar Meetings to which I shall later refer, your Commission became acquainted with the work of Felix Stumpf of the California Bar and the California Bar program of adult education. We are in the process of adopting its plan on a smaller scale, a plan which will bring the Institute or legal education to the lawyer. This, of course, takes funds, but under California's plan such adult education comes through the University of California Extension Service which has appropriated funds. We have requested the University of Idaho to include in its forthcoming budget a moderate appropriation for this purpose. The change-over will take time. We have appointed Prof. Herbert Berman of the University Law faculty to serve on our Committee of Continuing Legal Education for a three-year term. We plan that he visit Berkeley to meet with Mr. Stumpf and know that thereafter our program will be well grounded because of their accepted, well-proven experience.

Our present Committee has performed beyond its call in arranging Institutes, evidenced by the Moscow and the Boise meetings this year. Over half of our State Bar membership attended the Institute on Civil Rules in Boise in April, and we believe one and all are unanimous in their approval. It is the long range plan of the Commission, however, to take legal education to the lawyers in the locality where they reside by instructor teams armed with published material which will include text books and pamphlets.

Committee on Professional Ethics

Calvin Dworshak, Chairman; Paul Eimers; Merrill Gee.

This Committee is commended on its various ethical opinions rendered during the year in the Idaho State Bar News Bulletin and the *Advocate* and on its efforts in circulating these opinions to the parties concerned or affected.

Committee on Revision of Criminal Code

Gilbert C. Norris, Chairman; Herbert Berman; Wayne MacGregor; and Herman McDevitt.

Now that your Bar Association has completed the work regarding the Civil Rules as per the mandate of a previous Annual meeting, this Committee is now concentrating on revision of criminal rules and will report its progress either in the

Advocate or by resolution in July at the annual meeting. This Committee met in Weiser April 25, 1958.

Legislative Committee

David Doane, Chairman; Bruce Bowler; Willis C. Moffatt; Randall Wallis; George Greenfield; Calvin Dworshak.

Although the Legislature was not in session this year, it will be necessary for the Committee to prepare much needed Bar legislation for the 1959 session. In addition to the resolutions adopted at the 1957 Annual Meeting, it is anticipated that numerous resolutions will be presented at the 1958 Annual Meeting which will concern the committee.

Committee on Reform of Inferior Courts

Robert W. Green, Chairman; W. E. Smith; Edward J. Aschenbrenner; George Redford; Eugene Bush; Frank A. Chalfant, Jr.; Judge Merlin Young; and Judge Fred M. Taylor (ex-officio).

This Committee was appointed after resolution was passed at the 1957 Annual Meeting at Sun Valley for the purpose of preparing recommendations for legislation to be presented at the 1959 Legislature as to jurisdiction of inferior courts and as to qualifications of judges. The Committee met April 17, 1958 in Boise and, we understand, will have sweeping proposals of change, to present either in the *Advocate* or by resolution at Sun Valley.

Committee on Redistricting

Robert Copple, Chairman; James Cunningham; Richard Riordan.

The Committee on Redistricting the State and increasing the number of Commissioners has been appointed and will have a report or appropriate resolution.

Committee on Unauthorized Practice

J. Blaine Anderson, Chairman; James Wayne; Charles Scoggin.

This Committee has been active. Recently a violation occurred and the case was heard by Judge Carver. After prosecution by Justice Givens, Judge Carver has given counsel time for briefs. The Committee has been attempting to set up some system whereby the local Bars will effectively discover acts and prepare and initiate proceedings involving unauthorized practice.

Discipline

The Commissioners have heard much criticism concerning the handling of discipline. One must realize that when a letter or a complaint charging misconduct is received, it must be investigated and then referred to an attorney or to attorneys for prosecution. Such a procedure does not lend itself to expediting the handling of most complaints, especially when the referred attorneys are busy or have a natural reluctance to proceed. There have been cases of referring a matter to two or three different attorneys before action results.

But every complaint that comes before the Commission has been handled or is in the process of being handled. We think any attorney who has been prone

to criticize certain isolated cases will be satisfied with the action taken in each case if he is inclined to investigate the particular matter in which he is interested. As soon as certain pending complaints have been processed your Commission will sit as a Board of Hearing as permitted under Rule No. 156 of the Commission Rules. No complaint filed with the Board has been held without action. Each has been or will be processed either to prosecution or dismissal in accordance with the rules. Ultimately the Bar will have to hire an investigator and prosecutor, as has been done by many states, in order to administer the disciplinary problems that arise.

At present I would recommend more active participation by local bar associations for initial investigation of unauthorized and illegal practices.

Rules

This year has been the final culmination of years of work of Bar Committees, individuals, Bar Commissioners, and the Code Commission in adoption of new Civil Rules of Procedure. The Commissioners and Erle H. Casterlin visited every local bar association and found overwhelming support for new rules. True, it will take time for lawyers and judges to make the rules work smoothly and equally, but of other states that revised their rules, we know of none that has regretted the change.

An Interim Committee has been appointed for the purpose of recommending changes as they arise for keeping our rules up to date with the uniform rules of other states and the Federal rules. The American Bar Association now has an interim committee which was appointed after the Association discovered that its special Committee on Revision of the Federal Rules had accomplished its mission and had not been created for the additional necessary purpose of constantly revising the rules to date.

Public Relations

Alden Hull, Chairman; Don Bistline; Herman Bedke.

The Public Relations Committee has done an exceptional job. This is another Committee with staggered terms and its reforms and activities are continuing. This year it has circulated several pamphlets and has influenced banks and title companies to issue pamphlets on various subjects, advising people to consult their lawyers. The Committee has cooperated with the American Bar Association program and has used the Association's material where possible. Films have been made available to libraries of the State Universities and public schools. The pamphlet "Your Rights in Traffic Court" was prepared, published and is being distributed by the Bar in cooperation with the Department of Law Enforcement.

Interstate Bar Council

For the first time since 1953 all of your Commissioners and your Secretary attended the Interstate Bar Council meeting. Ordinarily the incoming president attends the meeting on his return from the American Bar Association Mid-winter meeting.

The original purpose of the Interstate Bar was to dispel Communist infiltration but this objective changed and the meeting is now held to discuss activities beneficial to members states.

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

Assets

	6-1-57	6-1-58
Accounts Receivable:		
State of Idaho	$ 296.29	$ 105.68
Deposit in First National Bank	1,744.54	2,352.29
West Coast Airlines (excise tax refund)		2.53
Total	$ 2,040.83	$ 2,460.50
Gain	419.67	
	$ 2,460.50	$ 2,460.50
Gain	419.67	
	$ 2,460.50	$ 2,460.50
Gain:		
Unexpended Registration Fee, Fall, 1957, Institute		$ 179.17
Unexpended Registration Fee, Spring, 1958, Institute		240.50
		$ 419.67

Both the Fall, 1957, and Spring, 1958, Institutes sponsored by the Committee on Continuing Legal Education were self-sustaining and in fact resulted in an excess of receipts over expenditures as noted.

The membership of the Idaho State Bar by Division is as follows:

	1957	1958	Increase
Northern Division	134	132	1.4%
Western Division	306	307	.3%
Eastern Division	148	153	3.3%
Military Service	6	2	66.6%°
Out-of-State Membership	26	30	15.3%
Total	620	624	.6%

°Decrease

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

Shoshone County Bar Association	19
Clearwater Bar Association	63
Third District Bar Association	180
Fourth and Eleventh District Bar Association	78
Southeastern Bar Association	71
Sixth District Bar Association	19
Seventh District Bar Association	50
Eighth District Bar Association	50
Ninth District Bar Association	46
Twelfth District Bar Association	17
Sub-total	592
Military Service	2
Out-of-State	30
Total	624

Since the last annual meeting of the Bar, the following deaths have been reported: Judge Robert W. Beckwith, Burley; C. Vernon Boyatt, Arco; Benjamin F. Harrison, Boise; Creed W. Mullins, Nampa; E. M. Sweeley, Twin Falls; Claude S. Beebe, Boise; Frank Estabrook, Nampa; John MacLane, LaJolla, California; Andrew G. Sathre, Cottonwood; Howard R. Stinson, Idaho Falls; Herman A. Welker, Boise; Kent E. Lake, Los Angeles; Charles R. Reeves, Buhl; Harry Kessler, Boise; Edward C. Butler, Lewiston, and J. Hugh Sherfey, Buhl.

With respect to admissions to the Bar, two examinations were administered during the past year, one in Septemher, 1957, and the other in April, 1958. In the first examination there were a total of fifteen applicants, nine of whom passed, six of whom failed. In the April examination there were eighteen applicants, thirteen passed and five failed. Of the thirty-three applicants, twenty-two or 66.6%, successfully passed the examination.

Eight complaints were pending as of June 1, 1957. Three of these complaints have been dismissed after preliminary investigation. Three complaints are still awaiting completion of preliminary investigation. A formal complaint has been ordered filed in one proceeding and a formal complaint has been filed in another. Four complaints against Idaho attorneys have been filed during this past year. Two of these complaints have been dismissed and the other two are awaiting report of preliminary investigation.

Respectfully submitted,

PAUL B. ENNIS,
Secretary.

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