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SUN VALLEY, IDAHO
July 14, 1973

IDAHO STATE BAR

THE

1973 ANNUAL MEETING

OF THE

BUSINESS SESSION

PROCEEDINGS

COPY

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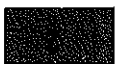
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To my left, the absent first, the second, and the third.
would appreciate your sitting with your judicial district.
during the course of the proceedings -- if possible, we
We would remind you and we perhaps will
because the rules say that those in attendance are a quorum.
given and you gentlemen being here constitute a quorum,
Official notice of this meeting has been
interest in the activities and the functions of the Bar.
your attendance. We hope there will be more who show
We welcome you here and, truly, we appreciate
us to begin our annual meeting of the Idaho State Bar.
attention. I think it is appropriately late enough for
PRESIDENT SHARP: Gentlemen, if we may have your

9:15 A.M.

CALL TO ORDER

JOHN M. SHARP

of the
IDAHO STATE BAR
SUN VALLEY, IDAHO
Saturday Morning July 14, 1973
SUN VALLEY INN
Continental Room

1973 ANNUAL BUSINESS SESSION



State Bar. There are 826 licensed attorneys as of the
outside the State of Idaho, 855 members of the Idaho
present time there are, including those who reside
Gentlemen, for your information, at the
is appropriate.

PRESIDENT SHARP: I suspect that perhaps that

(Laughter.)

MR. THOMAS A. MITCHELL (Coeur d'Alene): Isolated
be seated by your lonosomes at this first table, please.
The First District gentlemen, would you

the Bar, will act as our secretary.

proceedings, and Ron Kull, the Executive Director of
Mrs. Grace Tucker as our official reporter of these

Gentlemen, we have appointed

irons and woods.

your voting power is not as misguided as it is with your
look forward to that with interest. Mr. Bengtson hopes

PRESIDENT SHARP: Thank you, Allyn. We will

start voting to see where the power is. (Laughter.)

MR. ALLYN DINGEL (Boise): Just wait until we

without permission.

District President; you weren't regaled to the balcony
rear, the Fourth. This is by permission of the Fourth
Sixth, and then the Seventh. And the two rows to the
We know how to count, but the fifth to my right, the

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1st of July.

By district, this becomes important

because of the weighted vote that may be taken. In the

First District there are 64 lawyers, 7 judges and

magistrates, for a total of 71.

In the Second District, the Clearwater Bar,

there are 82 lawyers, 6 judges and magistrates, for a

total of 88.

In the Third District there are 64 lawyers,

and 6 judges and magistrates, for a total of 70.

The Boise Bar of the Fourth District, there

are 290 lawyers, 19 judges and magistrates, for a total

of 309.

In the Fifth District there are 112 lawyers,

9 judges and magistrates, for a total of 121.

In the Sixth District there are 70 lawyers,

5 judges and magistrates, for a total of 75.

And in the Seventh there are 85 lawyers,

7 judges and magistrates, for a total of 92.

And in the matters of Bar policy, and so on,

as we vote, those figures will be used.

Now, gentlemen, may we, for the record,

request the presidents of the respective district bars,

the president or the appointed representative, to

acknowledge his presence so that we will know the leader



of each district group.

From the First District?

MR. THOMAS A. MITCHELL (Coeur d'Alene):

Tom Mitchell.

PRESIDENT SHARP: Mr. Mitchell, you are the

president of the First District Bar, are you?

MR. MITCHELL: That's correct.

PRESIDENT SHARP: And the Second District?

MR. ROBERT P. BROWN (Lewiston): Robert Brown.

PRESIDENT SHARP: And, Bob, you are the

president of the Second District?

MR. BROWN: Yes.

PRESIDENT SHARP: Thank you.

In the Third District?

MR. WAYNE P. FULLER (Caldwell): Our president

isn't here, Mike Sweet, and our delegate, I guess, in

absence of him, is myself, Wayne Fuller.

PRESIDENT SHARP: You are Wayne Fuller of Caldwell?

MR. FULLER: Right.

PRESIDENT SHARP: Thank you.

From the Fourth District?

MR. FRANK E. CHALFANT JR. (Boise):

FrankChalfant Jr.

PRESIDENT SHARP: And you are the president of

the Fourth District Bar, Frank?

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MR. CHALHANT: Yes.

PRESIDENT SHARP: In the Fifth District?

MR. DONALD J. CHISHOLM (Rupert): Don Chisholm.

PRESIDENT SHARP: And you are president of

the Fifth District, don't

MR. CHISHOLM: Yes.

PRESIDENT SHARP: In the Sixth?

MR. BEN CAVENESS (American Falls): Ben Caveness,

president of the Sixth District.

PRESIDENT SHARP: Thank you, Ben.

And in the Seventh?

MR. DWAIN H. STUFFLEBEAM (Blackfoot):

Dwain Stufflebeam, president.

PRESIDENT SHARP: Thank you, Dwain.

Now, you are the gentlemen that will be

recognized to cast the ballots of your various districts

when we come to the voting then.

Gentlemen, each year we appoint a

Parliamentarian. And as traditionally as we appoint a

Parliamentarian, we appoint Ed Benoit. And so, Ed, once

more, we will call on you for that service, if you will,

please.

MR. EDWARD L. BENOIT (Twin Falls): I never have

to do anything, but it's all right.

PRESIDENT SHARP: Maybe that's why you do it



1 so well.

2 gentlemen, it is appropriate that we hear

3 a report from our secretary of the meeting, Mr. Ron Kull,

4 Ron, if you have that report, we will now call for the

5 minutes of the proceedings of our meeting held in

6 Sun Valley -- I believe it was July 1st of last year.

7 MR. MYRON D. GABBERT (Boise): Move to waive

8 the reading of the minutes of last year.

9 PRESIDENT SHARP: Thank you, Mr. Gabbert.

10 MR. MITCHELL: Second.

11 PRESIDENT SHARP: The motion has been made and

12 seconded that we waive the reading of the meeting held

13 last year. Ron, if your heart will not be broken, we

14 will call for a vote.

15 Those in favor of waiving the reading of

16 the minutes, please signify by saying "Aye."

17 (A chorus of "Ayes.")

18 PRESIDENT SHARP: Opposed?

19 Ron, thank you very much.

20 gentlemen, would you be kind enough, as you

21 are recognized by the chair, to state your name so that

22 Mrs. Tucker can make a complete record. She will know

23 many of you, but if she is like I am, even though she

24 knows you, she may not in what to her must seem the heat

25 of conflict in taking these things down, it might be



1 difficult. So will you be kind enough to announce your
 2 name as you respond.
 3 Gentlemen, in your printed pamphlet there
 4 is the report of the Executive Director of the Bar,
 5 which is the first item printed in pink. It starts on
 6 Page 60. And while we shall not go through it in detail,
 7 I would recommend that you look through it, familiarize
 8 yourselves with some of the operations and the procedures
 9 of the State Bar. Perhaps you would find it interesting.
 10 Those of us who have been spending one or two hours a
 11 month in Bar work find it extremely interesting to
 12 recognize and know what we are doing.
 13 Then continuing through that, you will
 14 find that there are reports of various committees of the
 15 Bar. Most of the committees have submitted a report, or
 16 their chairman has submitted a report. Obviously, some
 17 have not. I shall not go through them in detail. But as
 18 we leaf over them, if any of you have comments, if any of
 19 you chairmen have additions to be made to your report,
 20 we would be pleased to hear from you concerning them.
 21 And the first one appearing on Page 65 is
 22 the report of Gary Haman on the Bar-Press Committee.
 23 Next there comes the report of
 24 Glenn Coughlan on the Bar Policy and Position in Public
 25 Matters.



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These people have done in general a great deal of work, gentlemen. I think we should recognize and acknowledge what they have done.

The next report on Page 66 is from Sam Crossland on the Corporate Law and Business Committee. They report a very successful workshop that was held in Sun Valley some weeks ago.

The Committee on Continuing Legal Education under the chairmanship of Bob Alexander reports several legal institutes that were held. I'm sure that those of you who are interested in attending a meeting of this nature are the same people who found it expedient and profitable to attend these meetings.

Ike McDougall reports on the Economic Committee. I think you would find they are doing quite a bit of work on a relative value study, which he sets forth in some detail behind his cover letter.

I point out to you, gentlemen, that the Department of Justice made inquiries of the Bar concerning our minimum fee schedule. I want to be careful in not being impolite, but they were nosing around to see what was going on. And when they make a demand, they go from A to Z. There's no fooling about it. They wanted all of our disciplinary actions. They wanted the whole works, because they were seemingly prepared to pursue us rather



avidly.

Fortunately, we had some people who were

working on it and worked with them. And as of right now,

they have taken our word as to the existence or nonexistence

of certain items and we have been able to go through our

own files and draw the things that were appropriate.

Obviously, and of course, we have honestly given them

what they have asked for and have agreed to provide.

I don't think they have too much difficulty.

I don't think we will have too much difficulty. They

seemed to be largely concerned about the disciplinary files

on the attorneys who have been called before the Commissioners

for not charging enough, or something to that effect, and

happily, in my experience on the Bar Commission, we haven't

had a single soul write in and tell us that their attorney

didn't charge them enough. We have had them on almost

everything else, but not on that.

Then on Page 79 the report of the

Code Commission, gentlemen. They give you some details

of how and what you can expect with reference to the

supplementation in the printing of the Code and how things

are to be handled. So we knew you would be interested

in that.

On Page 82 Lou Racine's committee reports

on the Idaho Pattern Jury Instructions. And let me just

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comment here, gentlemen, that this has been a monumental project, and Bob Jones, as the draftsman, as well as the committee members, have greatly performed a service. It is my understanding that this matter is before the Court. They in turn have made inquiries of the various attorneys as to suggestions or recommendations you care to make. This is a tremendous thing you have done.

Bill Stellmon tells us of the lawyer Referral System.

One of the members of the Bar last evening had to tell me of a very pleasant and favorable and -- well, I guess it is redundant to say it was pleasant and favorable; it was profitable -- experience he had had with the lawyer referral in the very last few days. He is for it, gentlemen; he thinks it's just great.

We are getting considerable inquiry at the Bar office on this lawyer referral program. We think that it is working. We think that it is just turning out fine. The Legislative Information Committee has reported through Randall Wallis. These are the people that analyze the bills and sent you what I hope you will agree with me is that very helpful weekly bulletin that comes forth giving us a very quick and brief synopsis of the bills before the Legislature. This is a difficult and a time-consuming assignment. These people have

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done well and we commend them.

The Peer Review Committee report.

Gentlemen, this is another working committee. You remember that the Code of Professional Responsibility as originally drafted and proposed for Idaho mentioned that overcharging was a matter that subjects you to possible disciplinary proceedings. And under the tremendous service that

Gene Thomas performed in working over and making changes to the Code, we did away with the idea of subjecting the

attorney to discipline and we established the Peer Review Committee.

You will read where 17 complaints were filed

with the committee, people who contended they were

overcharged. And again, he makes no mention of anybody

coming in there worried about being undercharged. This

committee has worked diligently and well and we commend them.

And then we turn to the Professional Ethics

Committee. By the way, gentlemen, I am just droning on

and I don't mean to do that. If you have comments, please

feel free to make them.

The Professional Ethics Committee annual

report. They are busy. They have inquiries. And I submit

to you, it might be wisdom to refer your problems to them.

Certainly, you can avoid discipline problems coming on later.

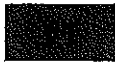
The next few pages, beginning on page 91,

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give the divided opinion of the Special Committee on the
 Reapportionment of the State Bar. I am sure that this is
 a matter that is going to come before us with resolutions,
 that you might very well have in mind the thoughts and
 suggestions of the various committees, because many of the
 members wrote to the chairman and gave them their opinion.
 The report of Bob Koontz as the chairman
 of the Restitution and Casualty Insurance Committee. I
 think it is unfortunate that we are unable to get together
 more and, as lawyers, present a united front to the
 Legislature. I say it not in criticism. The trial lawyers
 came out with a bill presented to the Legislature -- not a
 bad bill; I am not commenting on that -- but I think it
 unfortunate that we as lawyers cannot get together and
 present a united front on the thing.
 Now, there is much to be said as to the
 success or the failure of this committee. Nothing can be
 said as to the failure to use diligence, for they did
 use it, and they used skill and ability.
 The argument is, we won. We didn't get
 a no-fault bill. And the converse of that is, we lost
 because we should have had a mild or modified no-fault bill
 and that would be better than what might come later.
 So it is a rather difficult thing to resolve
 and to say whether we had great success or whether we



1 had some success or whether we had failure, and it depends
 2 on the point from which you view the problem. But great
 3 skill and diligence was shown by this committee, and we
 4 appreciate it.

5 The Public Relations Committee Report
 6 from Baxter Brown. He has prepared, as perhaps you know,
 7 the Law For Laymen program. We have the programs printed,
 8 the outlines for the talks. And if you District Bar
 9 Presidents have use for them or interest in them, you
 10 merely need to contact Ron Kull and they will be forwarded
 11 to you promptly. It is an outstandingly fine program. We
 12 think it is something that you well could use.

13 The Taxation Committee reports that --
 14 MR. MITCHELL: Excuse me. Just briefly on the
 15 subject you just covered, the Law For Laymen program,
 16 it was first started in our district. And at the time
 17 that we started it, we thought that probably we might have
 18 between ten and fifteen members of the public attend.
 19 There wasn't a single session where less than 300 people
 20 showed up for all ten of the hour to two hour long sessions
 21 that we held, and we got nothing but favorable response
 22 from it. We had to keep moving to larger rooms in order
 23 to have space for them.

24 PRESIDENT SHARP: Thank you, Tom. We appreciate
 25 that comment. That recommends it much better than I could.



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That shows what really is done.

The Idaho State Tax Institute is held each year in the fall, and that is reported.

Jim Givens gives us a report on the committee of the Unauthorized Practice of Law.

Dean Albert Menard, on Page 108, reports on the College of Law and the developments there. I was going to call on him to supplement this or give us a brief comment, but I don't see him here yet. Perhaps we could do that at a later hour.

Then, gentlemen, on Page 114, there appears the three-page report on the finances of the Bar. I can summarize it for you and, of course, you will want to look at the details, but I summarize it for you by telling you that we are something over a thousand dollars in the black for our operations in the last year.

Frankly, I had hoped we could spend every dime and let John Bengtson flounder in the problem. But, happily for him, it didn't work out that way.

We might add to you, that in the discipline matter, we had expended a rather considerable sum of money. And the Court went along with us on our commendatory order. And it was my hope that the cost bill of almost \$3,600 would have been paid before this meeting, and financially, we would have looked a little better. But I



1 suspect that John can confidently pump that into his
 2 budget and his anticipated revenue this coming year. I
 3 have been assured by the suspended attorney that those
 4 funds would be paid.
 5 Gentlemen, let me just take a moment to
 6 discuss with you one or two events of the Bar of the
 7 past year. I am perfectly well aware and totally
 8 conscious that you didn't all show up at this meeting
 9 solely and only for the purpose of hearing me give an
 10 annual report.
 11 And so I have taken the liberty of asking
 12 Ron to publish something of a report in the next issue
 13 of the Advocate, feeling that perhaps there would be some
 14 interest on the part of the members of the Bar as to what
 15 we considered interesting activities in this past year.
 16 But generally I think that our Bar fares well.
 17 I think that the good lawyers are prospering. Our economy
 18 is good. And we have much for which to be grateful.
 19 As I indicated, we have approximately 850
 20 members of the Bar, including 72 who have been admitted
 21 in the past year. Some of them, I might add, over my
 22 objection.
 23 There have been nine of our members who
 24 have died in the past year. The Spring examination
 25 dwaddled into the Summer grading session of a couple weeks



1 ago, and you will be interested to know that 22 of the
 2 27 who sat for that examination have been certified for
 3 admission and will be admitted in ceremonies before the
 4 Supreme Court on Tuesday of this coming week.
 5 I commented on the fact that 34 were
 6 admitted over the objections of the -- well, let's say
 7 34 were admitted who were not recommended by the Bar
 8 grading team and the Board of Commissioners. But we
 9 find no fault with these young men. I am sure they will
 10 do well and we wish them success.
 11 We have expressed and therefore will not
 12 further comment on our opinion of the manner it was
 13 handled. We recognize the authority and the position of
 14 the Court and we submit ourselves to them for we know
 15 that we are merely the arm of the Court in accomplishing
 16 their purpose.
 17 We have adopted some temporary grading
 18 standards by which the last Bar examination was graded.
 19 We have made some recommendations to the Court that
 20 some of those standards be changed. We don't think they
 21 really fit the bill and we think they can be improved
 22 upon. So in a spirit of being constructive, and the
 23 Court has asked us to be constructive, we are making
 24 recommended changes.
 25 Now, as I speak of the Court, I want you to



1 know, gentlemen, that I think, and I say this seriously,
 2 with a member of the Court here, that our relationships
 3 with the Court are fine. I feel good meeting with these
 4 men. I have no embarrassment or hesitancy in announcing
 5 my position. They know that. And I have no hesitancy or
 6 embarrassment in talking to them about this or any other
 7 subject. They have been gentlemen with us; we hope we
 8 have been with them.

9 And I think we can truthfully say that the
 10 new administration of the Bar Commission will have no
 11 problems with this Court. They are fine with us.

12 As I indicated, we are in the black. We are
 13 getting along financially. We didn't make the kind of
 14 money on CLB this year that we made on CLB last year.
 15 This is regrettable, but, on the other hand, when you
 16 consider the alternatives -- it's like Winston Churchill
 17 said when somebody commented upon him being 80 years of
 18 age, he said, "It's not bad when you consider the
 19 alternatives." Well, so it is with the CLB program. You
 20 know, if we can get a new Probate Code adopted or if we
 21 can repeal the Criminal Code and then re-enact it and
 22 then confuse it, boy, we can make a lot of money on CLB
 23 programs, but I wonder if that might not be a rather high
 24 price to pay. Personally, I would rather do without the
 25 additional revenue.



Gentlemen, discipline matters, as usual, take up a lot of the time of the Bar Commission. And I say this not with the spirit of criticism or fault, but three years ago when I went on the Commission, we had a discipline list that extended almost to the bottom of the second double-spaced page. I say that not in fault of the Commission.

But in the past three years, particularly in the last two, we have striven to cut that list. Now, unfortunately, we cannot cut the list of cases we have to consider. We have had 59 since the last meeting. That's a lot of complaints about the way you and I operate. Most of them stem from the fact that for some reason or another we seem to believe that once the attorney puts it in our hands, it's no longer his business. And the majority of these complaints are a cry for a little bit of attention from their lawyer. "He won't tell me what he's doing." And it is our experience that if we will write to the supposed offending attorney and say, "For Pete's sake, get in touch with her and do something," all is well. You would be surprised how often we will send a copy of that letter of complaint to the offending attorney and get a letter back from him in which he has accomplished the purpose. And then he says, "Fellows, thanks for bringing it to my attention. I have been sitting on that

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1 with it on the back burner and I'm just glad to be
 2 rid of it." Those are the majority of the complaints.
 3 Not all, unfortunately.
 4 In the past year it has been our unhappy
 5 experience to sit across the table from four men and tell
 6 them that we were recommending that they be suspended from
 7 the practice of law for varying periods of time. It has
 8 also been our experience to look one right in the eye and
 9 say, "Son, to our sadness and regret, we are recommending
 10 to the Court that you be disbarred."
 11 And the Court has been just great. They
 12 have sustained each recommendatory order. This sounds
 13 like I am avocating, because at the present time we have
 14 pending before the Court three further recommendatory
 15 orders of action to be taken, and I am not arguing our
 16 case; that's been done. But they have been just great.
 17 And in the last year and a half, our
 18 Supreme Court has given us, not only teeth, they have
 19 given us fangs to use in disciplinary matters.
 20 Well, I told you we started with a long
 21 list. I think I am being honest when I say that I don't
 22 think we have over six matters on the agenda for
 23 discipline at this time. We have tried to be expeditious
 24 in handling them.
 25 We think you are entitled to be cleared



1 immediately if the facts warrant it. And this onus should
 2 be from you just as quickly as possible. And we think
 3 if you are wrong or if we are wrong personally, that,
 4 likewise, should be handled promptly.
 5 Gentlemen, we have had three claims made
 6 against your clients' security fund. And we tell you that
 7 this is a tremendous program and a fine thing we have done.
 8 One of the claims was made that could not be considered
 9 because it didn't meet the requirements. In the other
 10 two cases, hearings were held and it was patently clear
 11 that someone was wrong, and it was the attorney. And so
 12 in those two instances, we decided and have paid \$5,000,
 13 the maximum amount to any one claimant. And the money
 14 was justly due. And in neither case did it begin to
 15 compensate the aggrieved individual. Unfortunately, the
 16 shortage far exceeded the maximum amount.
 17 Perhaps you are aware that the fund is
 18 established with a \$5,000 limit for any one claimant and
 19 a \$10,000 limit for any one attorney, the defalcation
 20 of any one attorney. And so that was the maximum amount
 21 that we could pay.
 22 We had hoped that we would sail through
 23 with an unblemished record, and we kind of budgeted
 24 the excess that we wouldn't have to put in the fund, but
 25 it didn't work out that way. And so as your dues are paid



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this year, a portion of them will again be diverted to
 fix up the clients' security fund, which now stands at
 some \$19,000.

Well, we are grateful to the committee
 chairmen for the work they have done. We are appreciative
 of it. They have been diligent and we are grateful.

I hate to single out one particular group,
 but I must mention to you the Bar examination committee:
 Tom Feeney, Clark Gasser, and Dick Fields. It is a work
 that goes unsung. Generally it goes unnoticed, but I
 will say last Spring, gentlemen, your work got a little
 bit of notice, rightly or wrongly.

But we are appreciative of what they do.
 Until you have been involved in it and you have seen the
 struggle and the work, you do not know how difficult it is.

I read the transcript of our meeting last
 year, and Gene Thomas asked the committee if they were
 ready for the Fall Bar. And old Dick Fields, bless his
 heart, said, "We have all but two questions." My
 understanding is that we now have those two questions for
 the next one, Dick.

You will be interested to know, gentlemen,
 that the new rules of the Court provide that we don't just
 grade on the subjects taught at the University of Idaho,
 the College of Law; we examine on 15 previously-announced



1 subjects. So now if you were planning to take the Idaho
2 Bar, you would have received a list of the 15 subjects
3 on which you would be graded.
4 And I personally saw the salutary effect it
5 had on a young man who is working in our office to prepare
6 for the Bar. And I took the list in to him and said,
7 "Doug, this is what you will be graded upon." And he
8 said, "What am I going to do with all the cram notes I
9 have on all the other subjects?" And I said, "Well,
10 you're going to defer reviewing those." It didn't break
11 his heart, I might add; he managed to bear up under the
12 assignment of having only those questions.
13 So this is going to be an interesting thing
14 that we haven't had before. We appreciate the gentlemen
15 of the Bar examining committee. It is a tremendous
16 responsibility.
17 Well, it has been my good fortune to attend --
18 oh, I wouldn't guess how many -- meetings. I just wouldn't
19 try to guess. I suppose the best way to know would be to
20 say, "It's all but one." I didn't get to attend one
21 because I was in the hospital -- and it was not for
22 prostate, gentlemen. (Laughter.) I'm happy to report that.
23 But I was able to attend all but that one.
24 Little did I dream three years ago that this
25 would involve -- just for curiosity, I have kept a record --



1 about 55,000 miles, 118 days from the office. And for
2 curiosity, we have made periodic checks. I think it is
3 seven letters a day during the past year to go out, not
4 counting that -- well, I hope it all got answered.
5 We want you to know that we appreciate the
6 services of Gloria Lees Rinehart who works in the Bar Office.
7 This is a tremendous individual. She has made Ron twice
8 as good an Executive Director, hasn't she, Ron? She really
9 makes him look good. He's good, anyhow. I want you to
10 know it and I want to say it. But she has done a lot.
11 So I'm just not going to say anything about him.
12 Tom said I should have videotaped this part.
13 (Brief pause.) Well, maybe that tells you how I feel.
14 Gentlemen, as we go down my agenda -- Gene
15 Thomas, do either you or Ed Benoit have anything to tell
16 us about the goings-on of the ABA? We would be pleased
17 to hear from you.
18 MR. EUGENE C. THOMAS (Boise): Mr. President,
19 the principal activity of interest to the Idaho Bar of
20 the AB this past year has been the Martindale-Hubbell
21 discussion, and I would like to report that they have
22 now completed a complete re-examination of the Idaho Bar.
23 They have also, with the cooperation of
24 the Advocate, made Idaho lawyers more aware of the fact
25 that if they are displeased with the rating that appears



1 in the book, they can get ten attorneys who are familiar
 2 with their practice capability and then thus secure a
 3 review for re-examination of the rating. I think those
 4 are two significant accomplishments that Idaho can take
 5 credit for in terms of the Martindale-Hubbell rating
 6 system that may be of interest to this meeting.
 7 It will also be of interest to this meeting
 8 that in an endeavor to reform the Martindale-Hubbell rating
 9 program that Idaho has gained a great deal of support and
 10 rapport with other states. The feelings that we have here
 11 are not unique. Unfortunately, I cannot report that the
 12 law list committee has gone all the way in constituting
 13 a peer review group as we asked them to do. You will
 14 remember that we asked that anybody displeased with these
 15 ratings be entitled to review by an appropriate committee
 16 of attorneys. And we protested the ultimate decision
 17 making being in the hands of the publisher. The law list
 18 committee still has that matter before it; however, I am
 19 not optimistic at the present moment that they intend to
 20 really establish a peer review committee. Instead, they
 21 have done the two things I have reported to you.
 22 I understand there is some talk of the bill
 23 being offered in the next Legislature on this subject by
 24 some attorneys who continue to be unhappy about it. On
 25 behalf of the State Bar, I have every intention to continue



1 to press for the type of peer review by lawyers that this
 2 convention requested a year ago. I think they are sound
 3 and I think we can expect other bars to support us in this
 4 regard.
 5 I would also report, gentlemen, that the
 6 provision of the Idaho State Bar in the connection with
 7 the no-fault insurance concept has been reflected by the
 8 American Bar. They have been positive in their approach
 9 in urging the reform and urging the kind of positive
 10 program that this Bar has urged. I think the attitude of
 11 the Idaho Bar has had some influence on the American Bar
 12 as a result of this position.
 13 Those probably have been the areas of
 14 activity of most concern to the Idaho Bar based upon the
 15 resolution being adopted in the recent years. Those of
 16 you who heard Bob Meserve yesterday I think will agree
 17 that under the leadership of a dynamic and courageous
 18 Bar President in this man Meserve, it is my feeling
 19 that the American Bar has vitality and has courage and
 20 has taken a strong stand in these times which are very
 21 difficult for our profession.
 22 Basically, I think those are the three
 23 major points I would like to touch upon at the present.
 24 If anyone has questions or comments or instructions,
 25 again I shall take to the American Bar Convention, we would



1 like to have them. Thank you.

2 PRESIDENT SHARP: Thank you, Mr. Thomas.

3 Ed, may we express our thanks to you for

4 arranging to have Mr. Meserve as our speaker yesterday.

5 This was an exciting experience and most-honoring

6 experience for the Idaho Bar, and we know of the work

7 you did.

8 We would be happy to hear from you, Ed.

9 MR. BENOIT: I would like to say this, that

10 Allyn Dingel, the editor of the Advocate, asked Bob for

11 a copy of his speech for those who couldn't hear it,

12 to reprint in the Advocate.

13 And this morning at the Hailey airport at

14 7:00 o'clock he pulled a copy out of his briefcase and

15 handed it to me with the admonition that an illiterate

16 secretary had typed it and would Mr. Dingel kindly clean

17 up his spelling.

18 One more matter that might be of interest,

19 as the State Bar delegate, I have sat in that House for

20 six years, two times a year, and I have never made a

21 remark until this last one. And there was introduced a

22 new standard for accrediting law schools, as the Dean

23 well knows, and several of us turned to it and we noticed

24 that as far as the professors, they should be paid an

25 amount of money equivalent to the general income of



1 attorneys in the area, and further things, and said that
 2 a tenure program must be established.
 3 And I reached for a microphone and asked the
 4 chairman of the committee if that meant that if you did not
 5 have a tenure program in your law school, it could not be
 6 accredited. And he answered in the affirmative.
 7 So I promptly moved to strike the whole
 8 section on the argument that the American Bar was going
 9 beyond their scope in telling a board of regents or
 10 board of education that they had to establish such a
 11 practice. In my opinion, they could say what curriculum
 12 should be in your law books. But when they were telling
 13 a little state like Idaho in effect how much money they
 14 should pay professors, I objected.
 15 And at that time I didn't know there was
 16 tenure. Due to the recent appointment by the Governor,
 17 I found there is. (Laughter.)
 18 But, at any rate, it was thought that the
 19 thing was going to run through. And all of a sudden the
 20 chairman of the rules and calendar moved to adjourn. We
 21 came back at 2:00 o'clock that afternoon after lunch, and
 22 I lost my motion 130 to 117, but I still think I was
 23 right. (Laughter.)
 24 PRESIDENT SHARP: Thank you, Ed. I can't believe
 25 that you have been there six years and haven't been

1 heard. (Laughter.)

2 MR. BENOIT: So help me God, it's the truth.

3 PRESIDENT SHARP: Well, maybe not in front of

4 the microphone, but I'll bet you have been effective and

5 I know you have been effective in other ways. And we are

6 appreciative of this voluntary service and the money that

7 we know you put in to sustain your position there.

8 MR. BENOIT: Well, my wife doesn't feel the same

9 about that latter remark.

10 MR. CHALFANT: Mr. President?

11 PRESIDENT SHARP: Mr. Chalfant.

12 MR. CHALFANT: Mr. President, Frank Chalfant Jr.

13 I'd like to ask a question of the ABA representatives. The

14 resolution which Gene referred to in regard to

15 Martindale-Hubbell, which I think I had a little hand in

16 preparing in the past, called for a study, for our

17 delegates to seek a study, by the American Bar Association

18 of the Martindale-Hubbell rating system. I wonder if

19 anything has been done about that.

20 I don't recall if the resolution actually

21 called for a peer review form of study, but I would like

22 to ask whether there has been any effort to get a study

23 of the entire system by the ABA as such.

24 PRESIDENT SHARP: Gene Thomas has the answer,

25 apparently.



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MR. THOMAS: Mr. Chairman, Frank, yes, the

American Bar law list committee, chaired by Phil Hemple,

has, in fact for about 18 months now, on active agenda

under a member from Philadelphia -- I know his name but

I can't remember it -- Mitch Miller has the special

assignment of conducting this study and proceeding with it.

Now, they have not formally developed a

report nor have I had any assurance that they are going to,

but they have our resolution and they have several things

you wrote on the subject, Frank, as a part of their files.

Ed Benoit and I have met with that committee

and I think it is accurate to say, isn't it, Ed, that we

spent over three hours with them in New Orleans on this

topic?

We have also had time before the National

Conference of Bar Presidents on this topic. And the

American Bar is going forward with studies in the area.

My difficulty is that I really think that

they feel they have solved the problem with what they

have done.

I also think that the gist of our position

to the bar would strongly demand peer review programs to

get the book publishers out of the business of ultimately

making a judgment about lawyers. But it is true that we

asked for a general study and I believe that Mitch Miller,



1 the chairman of the subcommittee, is going along with that.
 2 I am not satisfied with the scope or the speed of that
 3 effort beyond the two achievements I have reported to you,
 4 but I haven't given up on it, either.
 5 MR. BENOIT: May I comment on that?
 6 PRESIDENT SHARP: Yes.
 7 MR. BENOIT: Actually, as a State Bar delegate,
 8 Gene represents the Bar. I technically only represent
 9 the members of the ABA from Idaho. But when we are back
 10 there together, it doesn't make much difference.
 11 But I will tell you, Frank, that Gene
 12 didn't back down one bit before that committee presenting
 13 the resolution adopted by this association. As a matter
 14 of fact, he was pretty tough with them.
 15 MR. CHALFANT: I congratulate both of you on your
 16 efforts. I know that it has had some results.
 17 PRESIDENT SHARP: Anything further on this,
 18 gentlemen?
 19 gentlemen, we are going to take a coffee break
 20 in just a few moments. If you feel that you would care to
 21 beat the coffee break, that's up to you, but we will be
 22 breaking in just a few moments.
 23 Before we do so, Bob Huntley has a matter
 24 that he would like to present to you, please.
 25 MR. ROBERT C. HUNTLEY JR. (Pocatello): Ben Caveness



1 said I can have 45 seconds.

2 I would like to invite your attention to

3 the brochure that has been placed on your desk relative

4 to the Idaho Park Foundation which was just formed this

5 past year. Initially, it was a foundation appointed,

6 with the members of the board of directors being named by

7 the Governor, and from that point on, it has no official

8 or formal relationship to the State Government, but it

9 was formed for the purpose of giving Idaho a vehicle for

10 the procurement and development of parks and wild natural

11 areas in the state.

12 It is classified as a public foundation or,

13 for tax purposes, a contribution-recipient-type

14 organization which has a 50 per cent tax deductibility

15 provision as opposed to private foundations which give

16 the donor only 20 per cent benefit.

17 We would like you to consider this

18 organization in making bequests out of your own estate

19 as well as your clients'. Also, in the preparation of

20 inter vivos estate planning.

21 Just one quick example of what this

22 foundation has been able to do, just this past week we

23 received from Jack Hemingway and his wife approximately

24 236 acres of property near Richfield on the Wood River,

25 which is the recipient of waters from Silver Creek.



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Hemingway wanted to give this property in
a way that it could be preserved forever as a fly-fishing
stream with numerous other restrictions.

The Foundation has taken title to this land.
We are going to enter into a management contract with the
Fish and Game Department to carry out the wishes of the
donor.

We are willing to receive money, land, and
we have a lot of flexibility in how we can perpetuate
the wishes of a donor. So please bear this in mind in
your inter vivos and testamentary estate planning.

Thank you very much.

PRESIDENT SHARP: Thank you, Bob.

Tom Miller, would you care to come forward
and address us for a few moments? Tom has a message
for us. He has been appointed to chair a committee
representing the Bar in the government reorganization
program that, as you know, is going forward, and we would
be pleased to hear from you, Tom.

MR. THOMAS A. MILLER (Boise): Thank you,
Mr. President, and other members of the Commission.
Will Defenbach told me to make it short; I'll try to do so.

The Bar Commission appointed me, along with
Judge Towles and Ed Benoit and ex-Senator Ray Rigby, as
a government reorganization committee of the Bar.



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Ed Benoit resigned with regrets when he got this other
 appointment that he mentioned. That is, he was appointed
 to the State Board of Education, of course.

As you know, the Governor proposed, and the
 Legislature enacted, and the people approved, a
 Constitutional amendment that will require by January 1,
 1975, that the executive branch of government be organized
 into 20 departments, plus in addition to the elected
 officials: the Governor, Lt. Governor, Secretary of State,
 Auditor, Treasurer, Attorney General, and Superintendent
 of Public Instruction.

A 14-man commission has been appointed,
 consisting of senators and representatives, plus two
 people appointed by the Governor. It has been granted
 appropriation of \$110,000.

It has organized and has heard reports of
 the various state agencies as to their proposals for where
 they fit in. And most of them would like to have one of
 the 20 slots, of course.

For some reason -- I have not been able
 to determine why -- the Idaho State Bar was not mentioned
 in the propaganda or the information that was circulated
 prior to the last election. I don't know whether it was
 an oversight or an attempt to let the sleeping tiger lie.
 But, nevertheless, the Bar must be concerned about where



its future lies.

The committee independently -- the three

committee members who remained -- independently came to

a tentative conclusion that the best place for the Bar

would probably be in being recognized as a part of the

judicial department. However, we are withholding any

permanent recommendation until we see the shape that the

executive reorganization study develops into.

And I have reported to the Resolutions

Committee that your Bar committee will be making a final

recommendation in time for the Fall meeting of either

the Resolutions Committee, or whatever other form of

government the Bar adopts this morning.

I might add, the reason for the thinking

of the committee is that already, in the 1920's the

Supreme Court upheld the integrated Bar statute, the

second enactment of it, on the basis that the Bar

Commission was merely carrying out the disciplinary

functions for the Court. And then in the 1940's the

Court in an action involving a State statute which says

that anybody that graduates from the University of Idaho

College of Law ipso facto is entitled to admission. The

Supreme Court again reiterated that the admissions to the

Bar of Idaho are an inherent function of the Court. The

Legislature can establish minimum qualifications but

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1 could not say ultimately who was entitled to admission.
2 Therefore, in these two functions of
3 admissions and discipline, we are already recognized as
4 a part of the judicial department and we already have a
5 self-governing statute. I think we see no reason why this
6 could not be carried forward, subject to definitive briefing
7 and final studies.
8 I have reported to the Commission and the
9 Resolutions Committee that if the members of the Bar of
10 the State, however, object to this concept, they would
11 probably be wise to appoint a new committee, or at least
12 some more members of that committee, because that seems
13 to be the direction we are tending.
14 We will be writing reports to the Advocate
15 from time to time. We earnestly hope and solicit comments
16 from all the members of the Bar who have any ideas or
17 suggestions during the next weeks and months. Now is the
18 time to give us your ideas, because events are going to
19 move rapidly in the Fall and into the next session of the
20 Legislature.
21 And as far as the Bar is concerned, I think
22 this is a very important moment in history and I don't
23 want to be overly dramatic, but, obviously, the future shape
24 of the Bar is going to be decided in these next months.
25 If anyone has any questions now or after the



been under the direction and hard work of John Bengtson,
comment to you, this entire function of the Bar program has
Gentlemen, before we adjourn, may I just

PRESIDENT SHARP: Thank you, Dean.
arriving this Saturday morning in Sun Valley. (Laughter.)
inexcusable on my part as, I take it, my lateness in
anything to it and delay the break for coffee would be
in the original report in the back of the booklet. To add
Law School): I think my comments are completely contained

DEAN ALBERT R. MENARD JR. (University of Idaho
have any comments to make in behalf of the School of Law?
were late. Before we adjourn for our coffee break, do you
the outline. We have taken notice of the fact that you
Yes, there you are. We have referred to your report in
Dean Menard, I saw you come in, didn't I?

as his successor Jack Barrett of Boise.
Judicial Council and the Bar has nominated and appointed
that Tom has voluntarily relinquished his position on the

PRESIDENT SHARP: Gentlemen, we announce to you
my report.

from you. If there are no questions, that's the end of
from time to time, we would certainly be happy to hear
members of the committee -- Judge Towles or Ray Rigby --
if any of you would like to contact me or the other two
meeting, I would be happy to attempt to answer them. And

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1 and I want you to know that I appreciate so very much what
 2 he has done, both in preparing this meeting and what he
 3 and Tom have done as Commissioners of the State Bar.
 4 There, I said it. Thank you.
 5 Gentlemen, let's take five. Be back
 6 shortly for the war.
 7 (Recess.)
 8 PRESIDENT SHARP: The next order of business on
 9 our program is Mr. Ray Kuhn of the Mutual of Omaha people
 10 who have the insurance program for the members of the Bar.
 11 Ray, would you come forward, please.
 12 MR. RAYMOND L. KUHN (Mutual of Omaha):
 13 Mr. President, Commissioners, honored guests, and members
 14 of the Idaho State Bar: It is certainly a great privilege
 15 and pleasure to appear before you each convention.
 16 I have very little to say about the Bar
 17 program excepting that it is functioning at 100 per cent.
 18 We have had great participation, great interest, and few
 19 complaints.
 20 And I think it speaks well that our company
 21 has not had to raise its prices. I think that speaks well
 22 of the administration of the program.
 23 There have been many questions concerning
 24 the major medical program offered by Mutual of Omaha. I
 25 might tell you that I met with the actuaries in Omaha with



the attempt to raise the \$10,000 ceiling. And I think
 most of you have played some politics in your life, and
 I found that I was just leaning towards a rate increase
 if I invited such a thing. So I retracted my request and
 very fortunately the American Bar Foundation requested our
 company to write a major medical, which is ideal dovetail
 to your present Idaho Bar program.

Each of you, I am sure, I am sure, who are affiliated
 with the ABA, have received the literature on this. And
 to briefly explain it, it is a \$10,000 deductible with
 not 80-20 but 100 per cent reimbursement above \$10,000
 with no ceiling.

I think it is an ideal program, even though
 we in our agency are not permitted to underwrite it -- it
 has to be written through the American Bar Foundation --
 but if you have received this literature, don't throw it
 in the wastebasket; take a look at it, because it is an
 ideal supplement to your Idaho Bar program.

That's about all I have to say concerning
 the program.

And, of course, the real pleasure that I have
 in appearing before you is to honor your outgoing President.
 And, President Sharp, it is a great pleasure
 for me to present to you through Mutual of Omaha this
 gavel, which is inscribed "John M. Sharp, President of the

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Idaho State Bar, 1972-73."

And, John, I know you will hang this on your office wall as the Past-Presidents have done in the past, and it certainly indicates the extreme effort and the time and the sacrifice that you have personally expended during your year as President of the Idaho Bar.

Congratulations.

(Applause.)

PRESIDENT SHARP: Thank you, Ray. We appreciate

that. And as I told you, I'll tell the others, they pay,

like the commercial on TV: "It's working." (Laughter.)

Gentlemen, my notes now say, and perhaps

you will understand why, and I quote: "Call for the

resolutions and resign." (Laughter.)

I have about decided to do one and not the

other, and I don't know which.

Gentlemen, as perhaps you know, Reed Clements

of Lewiston has served now for three consecutive years

as chairman of the Resolutions Committee. Perhaps that

tells you something of the esteem in which some of us hold

him.

Reed, as usual, has provided leadership and

aggressiveness and a great deal of talent and, Reed, we

are extremely grateful to you again for accepting this

assignment.



Gentlemen, there were resolutions circulated,

and you are aware of them. If you have not reviewed, you

will find in your booklet, appearing on Page 117, the first

of the resolutions that have been circulated.

So we will call on Reed Clements who has

held meetings of the Resolutions Committee, and now he

will present his report.

Reed, if you will, please.

RESOLUTIONS COMMITTEE REPORT

Mr. Reed Clements (Lewiston)

CHAIRMAN CLEMENTS: I think I might make it

specifically clear, that just because I follow the Mutual

of Omaha commercial, I am not a part of the Wild Kingdom.

(Laughter.) Some of my committee is, but -- but I'll let

that go.

And I would seriously like at this time to

advise you of the makeup of the membership of the

Resolution Committee and thank them at this time for a

lot of hours and time well spent.

The First District was represented by

Tom Mitchell. The Second by Robert P. Brown. The Third

by Mike Sweet on a meeting Wednesday, but Mike unfortunately

had to return and he was replaced on Friday by Wayne Fuller.

The Fourth District was represented ably by Frank Chalfant Jr.

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25 PRESIDENT SHARP: Call for the question.

24 MR. MITCHELL: Tom Mitchell seconds it.

23 PRESIDENT SHARP: Is there a second?

22 with the reading of the resolution.

21 MR. BROWN: Mr. Chairman, I would move to dispense

19 presently located at 310 --

18 Services Program, Lewis-Clark Legal Services, Inc.,

17 WHEREAS, there is a federally funded legal

16 County, Washington;

15 Services program assistance for the poor of Asotin

14 WHEREAS, there is a continuing need for legal

12 by the committee was No. 1. It says:

11 The first resolution that was enacted upon

10 with this, but I will read them if you require.

9 happens to be No. 1. At your pleasure, we could dispense

8 is one that there was a typographical error on, and that

7 registration. I can read these resolutions to you. There

6 in the booklet that I am sure you all received at

5 Now, these resolutions are in fact printed

4 time and attention they gave to this matter.

3 And I thank them very sincerely for the

2 Ben Cavness. And the Seventh by Dwain Stufflebeam.

1 The Fifth District by Don Chisholm. The Sixth by



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are no facilities in Asotin County, and this is, as you
and so forth, to maintain an office in Idaho, for there
Washington attorney who deals in services to indigents,
Washington, and this is to allow and facilitate the
our Bar in Lewiston, being located so close to Clarkston,
This is a peculiar situation with regard to

He does not render legal assistance to Idaho
residents except with respect to matters of either
contemplated or pending litigation in the state in
which such attorney is licensed to practice.

read as follows:
in the first paragraph marked (1), that paragraph should
Page 118 of your copy and in the resolution part of that
If you will turn to what I think is on

CHAIRMAN CLEMENTS: Yes.
Did you have an amendment?
The motion is carried.
PRESIDENT SHARP: Those opposed?
(A chorus of "Ayes.")
saying "Aye."
with the reading of the first resolution signify by
PRESIDENT SHARP: Those in favor of dispensing
(Question called.)



1 see, very restrictive and operates only to that extent.
 2 Now, this resolution was enacted upon by
 3 the Resolution Committee and was passed.
 4 And at this time, Mr. President, I move
 5 the adoption of the resolution.
 6 PRESIDENT SHARP: Thank you.
 7 Gentlemen, the motion has been made that the
 8 first resolution be adopted as changed and the
 9 interlineation included.
 10 Do I hear a second to the motion?
 11 MR. BROWN: Second.
 12 PRESIDENT SHARP: Mr. Brown, thank you.
 13 The motion has been made and seconded that
 14 the first resolution be adopted. Your pleasure, gentlemen.
 15 (Question called.)
 16 PRESIDENT SHARP: The question has been called.
 17 This is a rule change and will require a
 18 weighted district vote. And so, gentlemen, we will call
 19 for your vote by district.
 20 Have you caucused over there? (Laughter.)
 21 MR. MITCHELL: The First District, which has more
 22 members here than who are sitting here -- we have one
 23 subverting the Second District, Clay Spear, another in
 24 the Fourth, Judge Smith -- votes "Yes."
 25 PRESIDENT SHARP: Thank you.



1 71 votes for the First District; "Yes."
 2 The Second District, Mr. Brown.
 3 MR. BROWN: Mr. Chairman, the Second District
 4 votes 88 votes "Yes."
 5 PRESIDENT SHARP: Thank you.
 6 The Third District, Mr. Fuller.
 7 MR. FULLER: The Third District votes 70 votes "Yes."
 8 PRESIDENT SHARP: The Fourth District,
 9 Mr. Chalfant.
 10 MR. CHALFANT: Unless I hear an objection from
 11 the Fourth District, I will cast the votes of the Fourth
 12 District for the resolution.
 13 PRESIDENT SHARP: Thank you.
 14 Don, the Fifth District, please.
 15 MR. CHISHOLM: The Fifth District votes in
 16 favor of the resolution.
 17 PRESIDENT SHARP: Thank you.
 18 And the Sixth District, Mr. Cavness.
 19 MR. CAVNESS: The Sixth District votes 75 votes
 20 in favor of the resolution.
 21 PRESIDENT SHARP: And the Seventh District,
 22 Mr. Stufflebeam.
 23 MR. STUFFLEBEAM: 92 votes "Yes."
 24 PRESIDENT SHARP: Thank you.
 25 The resolution carries unanimously.

Gentlemen,

Mr. Clements,

CHAIRMAN CLEMENTS: The second resolution is

a one-page resolution, which I will read.

WHEREAS, enactment of Article IV, Section 20,

of the Idaho State Constitution requires the drafting

of legislation to preserve an integrated bar

Association in the State of Idaho as one of the twenty

departments of government, or in the alternative the

drafting of a Supreme Court Order establishing an

integrated bar, and

WHEREAS, it is in the best interest of the

Idaho State Bar to reapportion itself to provide for

an equitable representation from each Judicial District

according to the ratio of practicing attorneys in the

respective Judicial Districts,

NOW, THEREFORE, BE IT RESOLVED, that any

committee or agent appointed by the Idaho State Bar

to draft proposed legislation or proposed Court Rules

providing for an integrated Bar Association be directed

to provide that there shall be nine Commissioners

instead of three, one from the First Judicial District,

one from the Second Judicial District, one from the

Third Judicial District, three from the Fourth Judicial



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District, one from the Fifth Judicial District, one

from the Sixth Judicial District and one from the

Seventh Judicial District, to be elected by the members

of the respective District Bar Associations for a term

of three years, said elections being held on a staggered

basis so that each year there shall be three Commissioners

senior in tenure that shall constitute an executive

committee of the Board of Commissioners, one member of

which will be elected President either by the other

Commissioners or by the general membership of the Bar.

Gentlemen, this was the subject of our

discussion on Wednesday afternoon at which, unfortunately,

the Seventh Bar Association could not be in attendance.

It was evenly divided and we have no recommendation with

regard to this resolution, because it was a 3-3 vote and

the Seventh Bar Association District went on record to

indicate a negative vote.

We have no recommendation with regard to

this resolution.

MR. CAVENESS: Mr. President,

PRESIDENT SHARP: Mr. Caveness.

MR. CAVENESS: The Sixth District moves that the

Resolution No. 2 be tabled until such time as the

Association as a whole takes final action on



Resolution No. 3, which we will consider immediately after this resolution.

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3 PRESIDENT SHARP: Did you all hear the motion, gentlemen? That Resolution No. 2 be tabled until the convention has acted upon Resolution No. 3 which, if numbers follow in order, would be the next one.

7 Do I hear a second to the motion?

8 MR. BROWN: Second.

9 MR. FULLER: Point of order, Mr. Chairman.

10 PRESIDENT SHARP: Second by Mr. Brown.

11 Yes, Mr. Fuller.

12 MR. FULLER: Mr. Chairman, does it require a two-thirds vote in order to change the agenda?

14 PRESIDENT SHARP: I would think not. The rules say that we act by majority vote in the normal proceedings of the convention.

17 MR. FULLER: Just a point of order. Is this a motion to table, which is properly a motion that requires, under Robert's Rules of Order, a two-thirds vote?

20 PRESIDENT SHARP: Is it a motion to table? Or to defer, I suspect, is the import of your question, is it, Wayne?

23 MR. FULLER: Yes.

24 MR. CAVENESS: The intent of my motion as originally given was to defer further action on it until

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1 after 3 had been voted on. Not to table.

2 PRESIDENT SHARP: Not to put it beyond the scope

3 of the convention in any way?

4 MR. CAVENESS: No. Defer it until later in

5 the convention.

6 PRESIDENT SHARP: Would then the sense of your

7 motion be that it be deferred until No. 3 is considered?

8 MR. CAVENESS: That is correct.

9 PRESIDENT SHARP: And Mr. Brown, you have

10 seconded it. Would that meet your approval?

11 MR. BROWN: Yes.

12 PRESIDENT SHARP: Gentlemen, any discussion on

13 this matter?

14 MR. CHALFANT: Point of order.

15 PRESIDENT SHARP: Mr. Chalfant.

16 MR. CHALFANT: Mr. President, will the vote on this

17 motion then be on a weighted basis?

18 PRESIDENT SHARP: On the deferment?

19 MR. CHALFANT: Yes.

20 PRESIDENT SHARP: No, sir, not on the order of

21 which the business will be carried on. The vote on the

22 substantive issue of the resolution will be on a

23 weighted basis. But I would think not.

24 Mr. Parliamentarian?

25 MR. BENOIT: I think you are correct.



1 PRESIDENT SHARP: I quit; I'm ahead. (Laughter.)

2 MR. BENOIT: I could be wrong.

3 PRESIDENT SHARP: What that does for a man's

4 confidence; he says I could be wrong. (Laughter.)

5 MR. BENOIT: No, I think you're right.

6 MR. CHALFANT: The Fourth District requests a

7 caucus be taken at this time, and we will recess briefly

8 at this time.

9 PRESIDENT SHARP: How long would you take for

10 your caucus? Would three minutes do you, Frank?

11 MR. CHALFANT: I think that would be fine.

12 PRESIDENT SHARP: Let's stand at ease for

13 three minutes.

14 (Short recess.)

15 PRESIDENT SHARP: Gentlemen, may we convene the

16 convention, please.

17 Gentlemen, the motion before the House is

18 to defer Resolution No. 2 until consideration is given

19 to Resolution No. 3.

20 If you vote "Aye," it means we then pass

21 to Resolution No. 3, following which we would take up

22 Resolution 2.

23 Are you prepared to vote?

24 (Question called.)

25 PRESIDENT SHARP: Those in favor of the motion



to defer, please say "Aye."

(A chorus of "Ayes.")

PRESIDENT SHARP: Those opposed say "Nay."

(A chorus of "Nays.")

PRESIDENT SHARP: We will count individually

by districts, only as a matter of convenience.

First District, will you raise your hands

to vote "Aye" or "Nay."

Two in favor.

The Second District? Five.

The Third District?

MR. FULLER: Is a "No" vote for or against it?

PRESIDENT SHARP: Oh, excuse me; I'm sorry.

Forgive me. Well, wait a minute. The Second District

opposed --

(A chorus of "Noes.")

PRESIDENT SHARP: Well, I didn't call for the

opposed on the Second District, so now I go to the

Third District.

Those in favor of the motion -- there is

one in favor.

Those opposed? Three opposed.

In the Fourth District, those in favor. Eight.

In the Fourth District, those opposed?

Twenty-six opposed.

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In the Fifth District, those in favor?

Ten in favor.

Those opposed? One.

In the Sixth District, those in favor? Ten.

Those opposed from the Sixth District?

(No response.)

In the Seventh District, those in favor?

Seven in favor.

Those opposed? None.

All right. There are 43 in favor. There

are 35 opposed. And the motion to defer, therefore,

carries.

MR. CHALFANT: Mr. President, point of order.

PRESIDENT SHARP: Yes, of course.

MR. CHALFANT: Was this resolution pending before

the body at the time this motion was amended?

COMMISSIONER NELSON: There was no motion to adopt.

PRESIDENT SHARP: There has been no motion made

concerning it, Mr. Chalfant.

We pass to the third proposed --

MR. CHALFANT: Then, Mr. President, the motion

to table or defer is out of order because there was no

motion pending before the House.

PRESIDENT SHARP: The Chair rules that the motion

passes and we defer No. 2 and proceed to No. 3.



1 Mr. Clements.

2 CHAIRMAN CLEMENTS: Resolution No. 3 involves

3 the --

4 MR. LARRY D. RIPLEY (Boise): Point of order.

5 As I understood it, the motion was whether or not to

6 defer 2 to take up 3-A.

7 (A chorus of "Noes.")

8 PRESIDENT SHARP: No one has mentioned "A" until

9 you did, to my knowledge.

10 MR. RIPLEY: That's what I get for sitting in

11 the back of the room. (Laughter.)

12 PRESIDENT SHARP: I'm sorry.

13 MR. RIPLEY: Okay.

14 PRESIDENT SHARP: We'll shout a little louder.

15 I think it is 3.

16 CHAIRMAN CLEMENTS: All right. Resolution No. 3

17 as printed is a long resolution regarding Rule 185.

18 MR. MILLER: Mr. Chairman, I move that the reading

19 be dispensed with.

20 MR. JAMES B. LYNCH (Boise): I second it.

21 And I will stipulate that if anybody has any questions,

22 I would be glad to answer them. (Laughter.)

23 PRESIDENT SHARP: Mr. Chalfant, do you have

24 a point?

25 MR. CHALFANT: I move to amend it with a motion



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to move that the resolution also be adopted.

PRESIDENT SHARP: Well, I think we had better

decide whether we are going to read it first.

Mr. Thomas?

MR. THOMAS: Mr. Chairman, I think this is a

matter of such importance to this Bar, that if it is

going to be voted up or down, it should be read.

JUDGE E. B. SMITH (Boise): Mr. President? I think

that we should have somebody who is acquainted with this

give us a bird's-eye view of it, not read the whole damn

thing. (Laughter.) It's just too long for us to

comprehend real quickly.

I move that we have somebody give us a

short report on it.

PRESIDENT SHARP: Well, the motion before the

House, Judge Smith, is that we dispense with the reading

of Resolution No. 3, and I believe that is the pending

motion.

(Question called.)

PRESIDENT SHARP: Are you prepared for the question?

(Question called.)

PRESIDENT SHARP: Those who favor dispensing with

the reading of Resolution 3, signify by saying "Aye."

(A chorus of "Ayes.")

PRESIDENT SHARP: Those who favor the reading



1 of Resolution 3, signify by saying "Nay."
 2 Now, this puts it in a negative way.
 3 Gentlemen, this is the way the motion was made.
 4 Those in favor of the reading, please
 5 indicate it.
 6 (A chorus of "Nays.")
 7 PRESIDENT SHARP: Well, I think the "Ayes"
 8 have it and, therefore, we shall dispense with the reading
 9 of the resolution.
 10 JUDGE SMITH: Now, Mr. President, I move that
 11 we do have somebody give us a bird's-eye view of this
 12 thing, very short and to the point.
 13 PRESIDENT SHARP: Mr. Smith, I am sure this is
 14 going to be necessary, and whether we ask for it or not,
 15 it will be given. (Laughter.)
 16 But essentially, the Resolution Committee
 17 has considered this resolution. They have a report to
 18 make. I think we should first hear their report and
 19 what, if any, recommendations they have to make, and then
 20 we will have time and will be interested in receiving
 21 explanation of anyone who cares to offer.
 22 CHAIRMAN CLEMENTS: Thank you, Mr. President.
 23 This resolution as printed in your brochure
 24 was the subject matter of discussion and vote at our
 25 meeting of the Resolution Committee on Wednesday afternoon



of this week.

After a discussion, the -- again, the

Seventh District was not available at that particular

point in time -- and the motion on the resolution failed,

and we have no recommendation because of the tie vote with

regard to Resolution No. 3.

This then became the subject matter of a

committee that was appointed by the Resolution Committee

of members of that Resolution Committee who met on

Friday morning with the whole committee, and at that

particular point in time, proposed for the consideration

of the Resolution Committee a resolution, which we have

noted 3-A -- and if you will turn to your books, I will

read those portions --

MR. FULLER: Excuse me, Mr. Chairman. Since the

motion was made to defer with regard to No. 2 was for

consideration of 3 only and not 3-A, I would protest and

object to any consideration of 3-A until after we have

considered 3.

PRESIDENT SHARP: Mr. Fuller, we are not

considering 3 or 3-A. We are offering the report of the

committee. Then we will decide the order in which we

will consider the resolutions.

MR. FULLER: Well, Mr. Chairman, I thought we

already had a vote that we were going to consider 3 and

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then back to 2.

PRESIDENT SHARP: We have turned to the third

resolution and we are now hearing the committee report,

and that will be offered.

CHAIRMAN CLEMENTS: The first section of the

Resolution Committee's resolution would read as follows;

and would be the first section:

(a) There shall be an annual meeting of the

Idaho State Bar at such time and place as shall be

fixed by the Board. Notice by mail of the time and

place of such meeting shall be given by the Secretary

to each member of the Idaho State Bar at least

fifteen days prior thereto. At the annual meeting,

the members present shall constitute a quorum, each

member shall have one vote, and questions, except

those designated in Paragraph (b) next following,

shall be determined by a majority of the votes cast

at the time of such vote.

Then Section (a) as printed in your brochure

becomes Section (b), with the exception that the last line

thereof is stricken:

... after consideration of the question at

the local bar association meeting ...



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That now reads:

All matters relating to or affecting the

statutes or law of the State of Idaho, rules of court,

the policy of the Idaho State Bar, or the government

of the Idaho State Bar or of the local bar associations,

shall be determined by the members of the Idaho State

Bar by direct secret ballot or through a vote of the

local bar associations as hereinafter provided in

this rule.

Section (b) as printed becomes

Section (c), with this modification: The second sentence

would read:

Each local bar association shall elect or appoint

at least one and not more than three members from the

local bar to serve as delegates to the meeting.

That changes it from a mandatory three

to one or up to three.

Section (c) then becomes Section (d)

without change.

Section (d) becomes Section (e)

without change.



1 Section (e) becomes Section (f) without change.

2 Section (f) becomes Section (g) with this addition:

3 Each delegate shall have discretionary authority to also vote on any amendments to said resolutions.

4 Section (g) becomes Section (h) without change.

5 Section (h) becomes Section (i) without change.

6 Section (i) becomes Section (j) excepting for a change in paragraph designations as a result of these changes, and there is added to that section:

7 Notwithstanding the foregoing, delegates at the December meeting shall have the discretionary authority to adopt any amendment to a resolution previously circulated.

8 There is a new section to be added at that point as follows:

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Paragraph (b) as are presented at such meeting by the
• • • dealing with matters designated in

CHAIRMAN CLEMENTS: I'm sorry.

MR. MITCHELL: You left out the last part of (k).

determine --

If the Commissioners of the Idaho State Bar

and I will read the whole paragraph:

paragraph reads exactly the same, except with this addition,

Then following that insertion, the next

matters designated in Paragraph (b) . . .

in Paragraph (h), adopt such resolutions dealing with
president, may upon a majority vote taken as provided

on any alternate delegate designated by the local bar

attend the December meeting of the local bar delegates,

of the local bar associations last appointed to

may properly come before such meeting, the delegates

at which time, in addition to other matters which

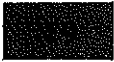
all members of the Idaho State Bar shall be held

different day therefor, a business meeting open to

the Idaho State Bar, unless the board fixes a

(k) On the last day of the annual meeting of

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Commissioners, committees of the bar, local bar associations or members of the Idaho State Bar, subject, however, to ratification by a majority vote of the members of the Idaho State Bar by secret ballot submitted to each member for vote as set out in Paragraph (2).

The last paragraph would read as follows:

If the Commissioners of the Idaho State Bar determine that an emergency exists and that the decision of the Idaho State Bar members is needed on any question, they may call a meeting of, or otherwise canvass, the delegates of the local bar associations last appointed to attend the December meeting of the local bar delegates, or any alternate designated by the local bar president, and upon a majority vote as provided in Paragraph (h) may either adopt a resolution or submit a question for vote to the members of the bar as provided in Paragraph (2).

BE IT FURTHER RESOLVED: That the Supreme Court of Idaho be petitioned by the Commissioners to adopt the revised Rule 185 prior to September 31, 1973, so that the local bar delegates may prepare further amendments to other rules in the fall of 1973 to



Implement this resolution and to adopt or change

other rules for the government of the bar, consistent

with this resolution.

Now, that matter was the subject of a vote

of the Resolution Committee and that was a favorable vote
and this is the report of the Resolution Committee with

regard to proposal of Resolution 3.

PRESIDENT SHARP: Is there any motion?

MR. CHALFANT: Mr. President?

CHAIRMAN CLEMENTS: I would move the adoption of

the Resolution Committee's report.

MR. BENOIT: Second.

PRESIDENT SHARP: Thank you.

MR. CHALFANT: I question and challenge the report

of the Resolution Chairman.

PRESIDENT SHARP: Excuse me, Mr. Chalfant; I

couldn't hear what you said.

MR. CHALFANT: I challenge the report of the

Resolutions Committee Chairman.

PRESIDENT SHARP: All right; of course.

MR. CHALFANT: And rise to a point of order.

According to the 1961 resolution of the

proceedings of the Idaho State Bar, it takes a two-thirds

vote of the Resolutions Committee for an amended

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1 resolution or any kind of a substitute resolution to be proposed.

2 The resolution as presented, Resolution No. 3,

3 which has not yet been moved for adoption and which we have
4 not had an opportunity to move for adoption as yet, is a
5 published resolution that has been duly adopted by the
6 Fourth District and is entitled -- and it was my
7 understanding at the Resolutions Committee meeting that it
8 would be voted on first in toto and unamended as it was
9 presented.

10 And the report of the Resolutions Committee

11 Chairman I believe is incorrect. And if necessary, I

12 request that a poll be taken of the members of the

13 Resolutions Committee on that point.

14 CHAIRMAN CLEMENTS: Mr. President, I would like to

15 respond to that. First of all, as I told you initially,

16 on Wednesday there was a 3-3 vote on Resolution 3 as

17 printed. And this would be in effect no recommendation

18 with regard to that particular matter.

19 Later on Friday the Seventh District, being

20 in attendance at that time, desired to be on record as

21 negative vote to Resolution 3.

22 And at that point in time this committee

23 then responded by the resolution emanating from the

24 committee -- now, this was, as you recall, Mr. Chalfant,

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passed by a 5-2 vote. Now, my arithmetic would indicate
 even though Mr. Mitchell was under some disability,
 self-inflicted in the previous nocturnal hours, he
 constituted -- (laughter) -- a valid majority vote by
 more than two-thirds.

Therefore, as I reported in the initial
 phases of this particular resolution, this is the
 Resolution Committee report and the resolution of 3 as
 printed did not receive a recommendation from that
 committee, which I think you will agree, because of
 the tie vote, which you were in attendance.

The resolution that was submitted for our
 consideration by the subcommittee, of which you were a
 member on Friday, was passed by a 5 to 2 vote.

Now, as I read the proceedings of the 1961
 meeting, a 5 to 2 vote is a two-thirds vote of the
 Resolution Committee, all in attendance, and it
 constituted -- it was a legitimate resolution of that
 committee, and this is how I reported it.

MR. CHALPANT: Mr. Chairman, the resolution on
 No. 3 at the meeting on Wednesday was a tie vote which
 meant that the resolution and that vote was not changed,
 which meant that that resolution must come to the floor
 of this meeting unchanged and first in priority without --
 unless there is a motion to amend from the floor.



1 Now, I request the Parliamentarian to make
 2 a ruling on this problem and, if necessary, to poll the
 3 members of the Resolution Committee.
 4 PRESIDENT SHARP: Mr. Thomas?
 5 MR. THOMAS: Gene Thomas, Boise. I second the
 6 motion of the Resolution Committee Chairman.
 7 PRESIDENT SHARP: That the resolution be what?
 8 MR. THOMAS: I second the motion of Mr. Clements
 9 as Resolution Committee Chairman.
 10 PRESIDENT SHARP: Thank you.
 11 MR. FULLER: Point of order on the floor.
 12 PRESIDENT SHARP: Now, the motion before the
 13 House is that the committee report be approved, which
 14 includes the amended resolution.
 15 MR. FULLER: Mr. Chairman --
 16 PRESIDENT SHARP: There is a question --
 17 excuse me.
 18 MR. FULLER: I would like to move to amend the
 19 committee report, Mr. Chairman, to indicate that at the
 20 meeting on --
 21 PRESIDENT SHARP: Well, now, excuse me, Wayne,
 22 just a moment. We have already had a motion to poll the
 23 delegates of the Resolutions Committee.
 24 Now, I'm just a poor, dumb, Eastern Idaho
 25 potato farmer, Wayne. Please help me out. Don't give



me too many resolutions all at once. Now, I'm taking the
 blame for not being acquainted -- we've got a good
 Parliamentarian, and I --

MR. FULLER: Which motion have you recognized
 as being on the floor at this time?

PRESIDENT SHARP: Well, I have first the challenge
 of Mr. Chalfant, and I think that would have precedence,
 but I have not heard a second yet and I anticipate one.

MR. FULLER: I second Mr. Chalfant's --

PRESIDENT SHARP: Thank you.

MR. BENOIT: He is out of order.

PRESIDENT SHARP: Well, let's do it the democratic
 way. Let's check with the Resolutions Committee on how
 they intended and how they voted on 3-A, which is the
 amendment.

COMMISSIONER BENGTON: It's a substitute
 resolution.

PRESIDENT SHARP: Yes, it is a substitute
 resolution.

CHAIRMAN CLEMENTS: Do you want them polled?

PRESIDENT SHARP: Yes, I wish you would.

CHAIRMAN CLEMENTS: The report that I just made
 with regard to this matter is a committee report of the
 Resolutions Committee, and I would like to poll the
 Resolutions Committee now at this time.

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1 Mr. Mitchell, is that your understanding

2 of the activity on Friday?

3 MR. MITCHELL: As far as I am concerned, your

4 report is accurate.

5 CHAIRMAN CLEMENTS: Mr. Brown?

6 MR. BROWN: Yes.

7 CHAIRMAN CLEMENTS: Mr. Fuller, you were

8 representing your district at that time.

9 MR. FULLER: It omits part of the report, which

10 I think should be included, that the chairman and the

11 President of the Bar Association agreed when requested by

12 me that there would be a vote on 3, and that vote would

13 be taken prior to 3-A; that they answered affirmatively

14 and said this would be the procedure.

15 CHAIRMAN CLEMENTS: Mr. Chalfant?

16 MR. CHALFANT: That's exactly the way we

17 understood it, and I endorse Wayne's remarks. That is

18 the record that was made at the Resolutions Committee,

19 although no record was made.

20 CHAIRMAN CLEMENTS: Mr. Chisholm?

21 MR. CHISHOLM: The report of the chairman is

22 correct. The committee said that No. 3 would be reported

23 out first and 3-A would be reported out following the

24 report on 3-A.

25 The Resolutions Committee had no authority



1 to determine which order the votes would be taken by
2 this body and we didn't take a position on this that would
3 in any way bind the meeting this morning.
4 CHAIRMAN CLEMENTS: Mr. Caveness?
5 MR. CAVENESS: I concur with the report of
6 Districts One and Two, and disagree with the reports of
7 Three and Four, and agree with the report of
8 District Five. (Laughter.)
9 CHAIRMAN CLEMENTS: Mr. Stufflebeam?
10 MR. STUFFLEBEAM: I agree with
11 Mr. Clements' report.
12 PRESIDENT SHARP: Thank you.
13 Mr. Miller?
14 MR. MILLER: Tom Miller, Fourth District.
15 Mr. President, it seems to me we can save a
16 lot of time voting on 3. If it doesn't have the votes, it
17 will be defeated. Then we can go to 3-A and take care of
18 it on a substantive basis rather than on parliamentary
19 maneuvering.
20 Resolution No. 3 was adopted by at least
21 three districts comprising more than a majority of
22 this Idaho State Bar. It seems to me it is entitled to
23 be voted on as adopted in those districts as published
24 in these proceedings and that I think probably some hard
25 feelings can be saved if we can vote on this in an



I did not understand that he endorsed the chairman's report.

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MR. CHALFANT: And I would like to hear it again.

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heard his answer this morning.

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PRESIDENT SHARP: Frank, all I can say is, you

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interpretation of the committee's report.

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understanding and that he agreed with Mr. Fuller as to his

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that Mr. Chisholm -- that he agreed that that was our

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polling of the Resolutions Committee, it was my understanding

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MR. CHALFANT: Point of order again. On the

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PRESIDENT SHARP: Mr. Chalfant.

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MR. CHALFANT: Mr. President?

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(Question called.)

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present. That's the motion before the House.

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two-thirds majority, of the Bar presidents who were

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that 3-A be considered. It was approved by the majority,

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But there is a motion before the House

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parliamentary maneuvering. I'd be lost if we tried.

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and agree with you and I do not want things run by

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PRESIDENT SHARP: I appreciate what you say

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urge that this body vote on 3 and then 3-A.

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this body and it would prevail. So I would certainly

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thereafter, in effect it would be the later enactment of

4

Even if 3 is adopted, and 3-A is adopted

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it will be defeated and we can go on to 3-A.

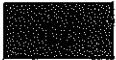
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orderly manner. As I say, if it doesn't have the votes,

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1 PRESIDENT SHARP: Well, Mr. Chisholm is on record
 2 as having endorsed the chairman's report.
 3 MR. FULLER: Mr. Chairman?
 4 PRESIDENT SHARP: Mr. Fuller.
 5 MR. FULLER: Yes. I would move to amend the
 6 motion that is presently on the floor to have Resolution 3
 7 considered and voted on first and then 3-A considered and
 8 voted on second.
 9 PRESIDENT SHARP: You have heard the motion to
 10 amend. Is there a second?
 11 MR. MILLER: Second the motion.
 12 PRESIDENT SHARP: Are you ready for the question?
 13 (Question called.)
 14 PRESIDENT SHARP: The motion then is before the
 15 House, do we amend the recommendation and the motion of
 16 the Resolutions Committee by having 3 heard and debated
 17 and voted upon before we consider 3-A.
 18 Do you understand it? The question is: Do
 19 we talk about the original motion before we talk about
 20 the amendment. This is a procedural matter and we will
 21 do it on a voice vote.
 22 Those in favor of the motion to consider
 23 Resolution No. 3, please say "Aye."
 24 (A chorus of "Ayes.")
 25 PRESIDENT SHARP: Those opposed, please say "No."



1 (A chorus of "Noes.")

2 PRESIDENT SHARP: Gentlemen, it sounded to me like

3 the "Noes" were more vocal. If you question, I will have

4 a count.

5 MR. CHALFANT: We want a count.

6 PRESIDENT SHARP: All right.

7 We will vote by districts.

8 Those in favor --

9 MR. CHALFANT: I have a question further. Is

10 this a motion that requires weighted voting? This is

11 an amendment.

12 PRESIDENT SHARP: This is a question of procedure.

13 It has nothing to do with the organization of the Bar.

14 We will vote by districts -- excuse me.

15 MR. CHISHOLM: Mr. Chairman, I would like to

16 rise to a point of order. I think that the discussion

17 of Resolution No. 3 will automatically encompass a

18 discussion of Resolution 3-A because of the comparative

19 value of 3-A as opposed to 3. It would be valid

20 argument and discussion on Resolution 3 and, therefore,

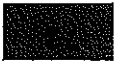
21 I don't think we need a vote. I think we shouldn't

22 restrict discussion on 3-A while we are talking about 3,

23 because it is relevant to the value of Resolution 3.

24 PRESIDENT SHARP: Well, obviously, this is true,

25 Don, but I think we had better resolve the vote that was



1 taken, whether we consider 3 before we consider 3-A.
 2 We've gone to a vote.
 3 Let's vote by districts.
 4 Those in favor of the motion -- which, again,
 5 is that we consider 3 before 3-A --
 6 As to the First District, those in favor --
 7 Two in favor.
 8 Those opposed? There are none.
 9 Of the Second District, those in favor,
 10 please signify with a raised hand so we can count you,
 11 please.
 12 Those opposed? There are five opposed.
 13 Of the Third District, those in favor of
 14 discussing 3 before 3-A. One.
 15 Those opposed to discussing? Two.
 16 In the Fourth District, those in favor of
 17 discussing 3 before 3-A, raise your hands, please. 25.
 18 Those opposed? 11.
 19 In the Fifth District, those in favor? One.
 20 Those opposed? 10.
 21 In the Sixth District, those in favor? None.
 22 Those opposed? We have 10.
 23 In the Seventh District, those in favor? One.
 24 Those opposed? Seven.
 25 We come out approximately 45 to 30, without



25 PRESIDENT SHARP: Gentlemen, if you would come

24 (Short recess.)

23 Thank you.

22 for a caucus. Will you please keep it close to that.

21 PRESIDENT SHARP: You have a three-minute break

20 three-minute break to caucus?

19 MR. MILLER: Mr. Chairman, could we have a

18 Mr. Miller?

17 Resolution 3-A.

16 the report of the Resolutions Committee which in effect is

15 The motion before the House is that we adopt

14 exactly my understanding. I may not have said it that way.

13 PRESIDENT SHARP: Thank you, Benoit. That was

12 adopted by this meeting.

11 including a recommendation of the adoption of 3-A, be

10 a vote, was that the report of the Resolutions Committee,

9 House, which has been seconded and then interrupted by

8 MR. BENOIT: Mr. Chairman, the motion before the

7 Any comment concerning the motion?

6 that's where we are now.

5 of the third resolution, which has been amended, and

4 PRESIDENT SHARP: We are back to the discussion

3 are we back to the discussion of No. 2?

2 MR. FULLER: Mr. Chairman, point of order. Then

1 waiting for Tom's arithmetic, and the motion falls.



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to order, please.

The Chair will recognize Mr. Thomas

from Boise.

MR. THOMAS: Mr. Chairman, Gene Thomas from Boise.

Appearing on Page 123 of the current

resolution and what is marked there as Paragraph (g), the

last part of Paragraph (g) --

PRESIDENT SHARP: Excuse me, Gene. You are

on Page 123?

MR. THOMAS: Yes, sir.

PRESIDENT SHARP: I don't see Paragraph (g).

MR. THOMAS: It's the top part of that page.

PRESIDENT SHARP: Oh, it is the continuance.

Forgive me.

MR. THOMAS: The continuation of Paragraph (g),

the letter (g), in the committee's report.

Mr. Chairman, I move to amend the resolution

before the House by deleting the last sentence of that

Paragraph (g), which reads:

The vote of each local bar shall be cast as a

single unit vote and not divided on any question unless

the delegates are instructed otherwise by local bar

resolution.



1 My motion to amend is to substitute, correct
 2 that language, with the provision as follows:
 3
 4 The vote of each local bar shall be cast on a
 5 pro rata basis according to the Ayes and Nays unless
 6 the delegates are instructed otherwise by local bar
 7 resolution.
 8
 9 I so move, Mr. Chairman.
 10 MR. CHISHOLM: Point of order, Mr. Chairman.
 11 There hasn't been a motion before the House that
 12 Resolution 3 be adopted. Therefore --
 13 COMMISSIONER NELSON: Yes, there is.
 14 MR. CHISHOLM: That Resolution 3 be adopted?
 15 CHAIRMAN CLEMENTS: 3-A.
 16 MR. THOMAS: 3-A. And I refer to the language
 17 in the committee's report.
 18 PRESIDENT SHARP: Your recommendation and your
 19 motion is to amend the amended resolution which is 3-A;
 20 is that correct?
 21 MR. THOMAS: That is correct, Mr. Chairman.
 22 If I gain a second, I would like to expand upon it.
 23 MR. CRAIG L. MEADOWS (Boise): Second,
 24 PRESIDENT SHARP: Thank you.
 25 Please do, Mr. Thomas.



1 MR. THOMAS: Unless the delegation is bound as

2 it comes here, it is my feeling that when we cast these

3 votes, those points of view as felt by the lawyers who

4 make up the delegation should be given due weight.

5 As a Boise attorney, I frankly feel that

6 we are burdened by the large number of votes that we have

7 to cast on the various matters that come up here. But

8 I think this is true of one district as another.

9 Therefore, unless our district bar at home

10 decides that we must cast a unanimous ballot on each of

11 these matters, I would prefer to see this convention

12 reflect the split that occurs.

13 I think the minority view is entitled to

14 consideration and reached not by rule of Court, which

15 this would be, and a rule of the Bar, which this would

16 be sanctioned, this type of balloting, which ignores the

17 minority view.

18 In a place like Boise, that minority might

19 not have power to carry its resolution in the delegation,

20 but as a very large number of lawyers and, therefore, I

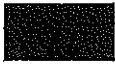
21 would hope this motion to amend might be approved as

22 giving the local bar that prerogative but not necessarily

23 presuming it.

24 Thank you, Mr. Chairman.

25 PRESIDENT SHARP: Thank you, Mr. Thomas.



MR. HAROLD L. RYAN (Weiser): Second the motion.
 PRESIDENT SHARP: It's been seconded.
 Mr. Ryan, thank you.
 Any further comment concerning the proposed amendment to 3-A?
 Mr. Lynch? The Chair recognizes Mr. Lynch.
 MR. LYNCH: Thank you, Mr. Chairman.
 I had quite a large hand in drafting this Rule 185. I worked for a long time in the drafting of this Rule 185 and I can see that the way we are proceeding, whatever information I have, will have to be presented piecemeal backwards.
 But on this particular point raised by Gene, when I drafted the original wording, I attempted to the largest extent possible to incorporate what has been the practice of the Idaho State Bar for a good number of years.
 And the practice has been since the 1961 resolution was adopted by this membership for resolutions to be circulated so that the members of the Bar at home without attending the meeting at Sun Valley could have a chance to express their opinions on matters of policy and that expression would then be carried either to the annual meeting in Sun Valley or would be carried to a delegate in the Fall and expressed by means of a vote.

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1 Now, traditionally, it has always been the
 2 practice here for the local bar association to show up
 3 and cast a unit vote representing the feeling of the majority
 4 of their people back home. I don't know whether that is
 5 wise or not.
 6 But the fact is, I think you are going to
 7 get into tremendous technical difficulties if each bar
 8 association, unless instructed otherwise, and they will
 9 probably forget to do this time and time again in the
 10 local bar; each bar association delegate will arrive down
 11 here and then try and remember back to what the
 12 proportional split was in their local bar and then try and
 13 figure out how to cast a proportionally split vote.
 14 Now, there is a provision, it is worded
 15 the other way, if the local bar members at home, when they
 16 cast the vote, wish to divide it when they get to
 17 Sun Valley they are perfectly entitled to under the existing
 18 wording of the resolution.
 19 I think it would cause much less confusion
 20 if the delegation would come to Sun Valley instructed by
 21 their local bar with the presumption they are going to
 22 cast a unit vote unless instructed otherwise. Otherwise,
 23 you are going to get here and have to look back by hindsight
 24 time and time again to try and determine what that vote
 25 back home was.



1 This present wording is in conformity with
 2 the practice for at least the last ten or twelve years,
 3 and I would therefore think, for the sake of clarity, that
 4 we not support the amendment, that we leave the wording
 5 as it has been in the past few years.
 6 (Question called.)
 7 MR. MATTHEW MULLANEY (Boise): Mr. Chairman,
 8 one moment, please. My name is Mr. Matt Mullaney, with
 9 the Boise Bar, and I would like to support the remarks
 10 of Mr. Lynch.
 11 I think it is important that there be
 12 some affirmative action at the local Bar to establish the
 13 difference of point of view and the weight of the
 14 difference rather than let it fall by default. And I
 15 support Mr. Lynch's opposition to the motion of
 16 Mr. Thomas.
 17 PRESIDENT SHARP: Thank you.
 18 The question has now been called. The
 19 issue before the House is whether 3-A as proposed shall
 20 be amended to provide that the delegates or the chairmen,
 21 the president, shall vote on a proportion basis rather
 22 than on a total basis.
 23 Mr. Hopkins?
 24 MR. C. TIMOTHY HOPKINS (Idaho Falls): Mr. Sharp,
 25 if you could answer a question for clarification of



1 Mr. Lynch, in interpreting his own language, does he mean
 2 in the last couple lines there of Paragraph (g), that if
 3 the delegates are instructed otherwise, that would mean
 4 that the majority could not control the instruction from
 5 the local bar so that, for example, if a majority passes
 6 in favor of a resolution, that they could opt in favor of
 7 the unit rule? Would there be any provision then for
 8 distributing the votes? Do you understand the question?
 9 MR. LYNCH: I'm not sure I do completely.
 10 I think there are two questions here that
 11 might be confusing. One is whether we are going to
 12 carry forward the instruction of the local bar association
 13 on a matter that had been circulated. And the other one
 14 is a question on an uncirculated matter; what we are going
 15 to do when we get here.
 16 Now, the point that this preserves, what
 17 I am trying to preserve in this language, is that when
 18 the local bar delegation gets here, that they make sure
 19 they carry forward the instruction of the local bar and
 20 that three of them don't get here and decide that even
 21 though three guys voted 30 to 3 at home to go one way
 22 and the three get down here and decide, "No, we're going
 23 to vote the other way."
 24 So unless the local bar -- now, the language
 25 helped to preserve the intention of your local bar members.



1 Now, if the local Bar decided it is all right to split

2 the vote, then they can affirmatively do that.

3 MR. HOPKINS: Let me clarify the question. I

4 think Mr. Thomas' concern is for in effect minority rights.

5 And procedurally, it seems to me with the language as it

6 reads here, if the vote at the local Bar were in favor of

7 a resolution by just 51 per cent, then that same 51 per cent

8 could demand that the president of the Bar go to the State

9 convention and vote the unit rule and thereby not offering

10 the minority rights. That I think is what Mr. Thomas'

11 amendment intended to offer. Now, I may be mistaken in

12 that understanding. That needs to be clarified.

13 MR. MILLER: Mr. President, I think that same

14 majority of 51 per cent would also instruct the delegation

15 to vote by unit rule, so it really doesn't make much

16 difference. If that majority wants to vote the unit rule,

17 they could carry it.

18 I think Mr. Lynch's comments properly go to

19 getting away from the confusion that probably will arise

20 if we do not maintain the present practice.

21 PRESIDENT SHARP. Mr. Thomas?

22 MR. THOMAS: Mr. Chairman, I will be brief.

23 The reason I bring this up, above all, is

24 because matters come up at convention that have not come

25 up at home, but I also think that the matters that are



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voted on at home where they result in a split vote, should
 be voted here generally with the minority view being
 respected and counted.

I live in a town where we cast over 300 votes
 here, and I don't think 150 "No" votes should be ignored
 just because 160 voted "Yes." But it still preserves the
 prerogative to the local bar to bind its delegation if
 that's its desire. You leave the power with the bar.

But the presumption under my amendment favors
 recognizing the minority, and I really think that that is
 important if we are trying to reflect the opinion of all
 the lawyers.

Thank you, Mr. Chairman.

PRHSIDBNT SHARP: Thank you.

Gentlemen, I think the question has been
 called. Let's move on.

I think this is a matter which affects
 policy of the bar and, therefore, it should be cast by
 weighted vote.

The motion, then, is that we amend
 Resolution 3-A to provide that the delegates come
 instructed to vote, or those who vote here give regard
 to the minority vote of their district.

Are you ready to vote, gentlemen?
 (Question called.)



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PRESIDENT SHARP: The First District?

MR. MITCHELL: 71 votes "No."

PRESIDENT SHARP: The Second District?

MR. BROWN: 88 votes "No."

PRESIDENT SHARP: The Third District?

MR. FULLER: 70 votes "No."

PRESIDENT SHARP: The Fourth District?

MR. CHALFANT: Mr. President, it's a little

difficult for me to poll these gentlemen. I think we are

bound by unit vote on this vote.

PRESIDENT SHARP: I think so.

MR. CHALFANT: And I think we should, therefore,

caucus in order to determine.

PRESIDENT SHARP: Before you caucus, let's pass

you for just a moment.

The Fifth District please.

MR. CHISHOLM: The Fifth District, 121 "Yes."

PRESIDENT SHARP: The Sixth District?

MR. CAVENESS: 75 votes "Yes."

PRESIDENT SHARP: The Seventh District?

MR. STUFFLEBHAM: 92 "Yes."

PRESIDENT SHARP: We need the fourth one. We've

got to have you, Frank. (Laughter.)

MR. CHALFANT: We will only take a minute.

(Brief caucus.)



MR. CHALFANT: The Fourth District votes

17 in favor of the amendment --

(A chorus of "Noes.")

A VOICE: You have to vote the unit vote.

What is your majority?

MR. CHALFANT: All right.

Mr. President, 206 votes in favor,

and 103 votes against.

(A chorus of "Noes.")

PRESIDENT SHARP: I think we have a unit rule,

Frank. I think we had better get a vote.

MR. CHALFANT: We are bound by it, by our original--

I vote "No," then.

(A chorus of "Noes.")

MR. CHALFANT: Does anybody want to question me?

(Laughter.)

MR. THOMAS: Mr. Chairman?

PRESIDENT SHARP: Mr. Thomas.

Gentlemen, may we have order, please.

MR. THOMAS: A point of order, Mr. Chairman.

Our delegation voted 17 in favor of the amendment and

11 opposed. I would ask the Chair, therefore, to apply

the Boise Bar vote according to that ratio.

A VOICE: I second it.

MR. TED H. EBERLE (Boise): Mr. Chairman?

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PRESIDENT SHARP: Mr. Eberle.
 MR. EBERLE: The Boise Bar at home adopted this
 resolution without amendment by majority vote. Mr. Chalfant
 has a duty to vote against this resolution for the entire
 delegation.
 PRHSIDENT SHARP: The Boise Bar never considered
 this amendment because it just came up today, Mr. Eberle.
 MR. EBERLE: They voted for the original by
 majority. They don't have any other rule at home. He is
 following what 300 people at home said, not what --
 PRESIDENT SHARP: Resolution 3 is not before
 the House. The Fourth District Bar has voted on the
 amendment. The majority voted in favor of the amendment
 and the Chair declares that the Boise Bar votes will be
 cast in favor of the amendment.
 MR. EBERLE: I move for a point of order to
 challenge the ruling of the Chair.
 MR. FABER F. TWAY (Boise): Second.
 PRESIDENT SHARP: You have a perfect right to
 challenge the ruling of the Chair.
 A VOICE: I second the motion.
 PRESIDENT SHARP: You second the motion.
 Gentlemen, it requires the majority vote
 only to overrule the Chair. The question is before the
 entire body whether the Chair will be overruled.

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(Question called.)

A VOICE: Unit vote? (Laughter.)

PRESIDENT SHARP: No.

Those in favor of overturning the Chair,

which in effect will cast the Boise Bar vote to the office --

Those in favor of overturning the Chair, say "Aye."

(A chorus of "Ayes.")

PRESIDENT SHARP: Those opposed?

(A chorus of "Noes.")

PRESIDENT SHARP: We will pass the Boise vote.

The resolution passes, gentlemen, and the amendment is

now on 3-A.

The motion has been made and seconded and

is before the House that we consider the adoption of

Resolution 3-A.

(Question called.)

PRESIDENT SHARP: 3-A as amended by Mr. Thomas'

motion. The pleasure of the group is what?

(Question called.)

MR. RIPLEY: Some time back in the same meeting

I inquired as to the status of the vote when we moved from

2 to 3 and I was informed by the Chair that I had never

heard of 3-A yet and so I was obviously mistaken.

Now, I discovered that we have moved from

2 to 3 to 3-A.



A VOICE: Right.

MR. RIPLBY: There is a point of parliamentary

procedure. I'm inquiring as to whether or not we have to

vote now to defer from 3-A to 2. (Laughter.)

MR. BENOIT: It has already been passed upon.

MR. RIPLBY: What happens when we move to 4 before

we decide 3-A? (Laughter.)

PRESIDENT SHARP: Larry, I'm glad we can both

count. We're going to vote on 3-A because that's the

recommendation of the Resolutions Committee.

MR. LYNCH: Mr. Chairman.

PRESIDENT SHARP: Mr. Lynch. Jim, may I say this,

and please understand how I mean it sincerely: It is

getting late; let's keep it as quickly as we can.

MR. LYNCH: Mr. Chairman, I will do my very best.

PRESIDENT SHARP: Thank you, Jim.

MR. LYNCH: Mr. Chairman, first of all, I should

take one second to apologize to Sun Valley for having to

work on all these serious resolutions. I expect any

minute the golf pro to be over here wondering what the Hell

is going on. (Laughter.)

But the situation is, it appears now that

we have 3-A, which is a recommendation of the Resolutions

Committee on this subject that I have worked on a long time

that is before the House. And it would appear to me in due

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course that they are probably going to pass 3-A. I don't know what we'll do with 3 when we get to it. There are three proposed changes recommended in 3-A that really change, as I see it, what has been originally proposed in 3 and circulated and voted on at home. The first change is Paragraph (a) which provides that, above all else, there will be an annual meeting with or without the business session and it is somewhat redundant because Rule 181 says that there will be an annual meeting in any event. There was no effort to try to make it mandatory that they couldn't hold an annual meeting in the summer. The original 3-A went to the question of what type of business meeting was going to be held in conjunction with the business meeting. Now, there is language in 3-A which does provide for a limited business meeting in connection with the annual meeting, much like we have here. And I personally think that it is unnecessary. Others may think that it is very necessary. I don't think it is a significant point between 3 and 3-A. Mr. Chairman, the reason I rise is because I do think there is one little piece of language in here which is significant and, therefore, I would move that



25 Now, the problem was that the method isn't

24 Rule 185 ever since it was first adopted.

23 government on policy questions. That's been preserved in

22 directly and not through a representative form of

21 individual attorney to express his desires and his vote

20 we already have in Rule 185, and that is the right of the

19 rather long resolution 185 is to preserve something which

18 MR. LYNCH: Mr. Chairman, the purpose of this

17 PRESIDENT SHARP: You have it.

16 A VOICE: Second.

15 to briefly address myself to a reply.

14 And if I can get a second, then I would like

13 the deletion of that language.

12 language in 3-A be deleted and that 3-A be amended by

11 And, Mr. Chairman, my motion is that that

9 previously circulated.

8 authority to adopt any amendment to a resolution

7 the December meeting shall have the discretionary

6 notwithstanding the foregoing, delegates at

4 delegates":

3 the renumbered (j), following the words "association

2 has been inserted on my draft of this thing, following

1 3-A be amended by deleting this language, which I think



1 very effective. I think we are about to move on and
 2 establish a more effective method by providing that the
 3 individual attorney at home can vote on these resolutions.
 4 Now, my problem with this particular
 5 language is, and I am sure it was not intended in this way --
 6 I am sure it was intended by the drafters that there might
 7 arise a problem with the various Bar associations gathered
 8 if a delegate proposed a conflicting resolution, that it
 9 seems cumbersome to try to resolve those.
 10 And so I think this language was proposed in
 11 order to allow the delegates to make minor amendments
 12 between resolutions and get on with the business.
 13 But I am afraid, Mr. President, the language
 14 goes too far and it nullifies -- in effect, it gives the
 15 power to the Resolutions Committee at the December meeting
 16 to in effect completely reverse by way of amendment what
 17 the lawyers have voted on back home.
 18 And for the simple reason that I think that
 19 language has a danger in it and it goes too far, I would
 20 support this amendment 3-A by deleting that language so
 21 that the rights of the individual attorney voting on
 22 policy matters will be preserved and not delegated to a
 23 Resolutions Committee meeting out of their sight at a
 24 different place where they can't participate.
 25 PRESIDENT SHARP: Thank you, Mr. Lynch.



Any further comment on his amendment, which has been seconded, that we delete from what is now (f), appearing right at the middle of Page 124:

Notwithstanding the foregoing, delegates at the December meeting shall have the discretionary authority to adopt any amendment to a resolution previously circulated.

The motion then is that we delete from 3-A that paragraph. This deals with --

MR. THOMAS: Mr. Chairman?

PRESIDENT SHARP: Mr. Thomas.

MR. THOMAS: I would ask that the Chairman of the Resolutions Committee explain what their thinking was in proposing the language that is in the resolution.

PRESIDENT SHARP: Let's have him do that and then we'll have our vote.

CHAIRMAN CLEMENTS: Mr. President, Mr. Thomas, we felt that in this matter that there are many things that come up before the annual meeting, many changes take place in the Legislature, and other activities, which if you adopted a resolution in your local Bar association some time ago and things change and you felt that an amendment was appropriate, you ought to have at least

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discretionary power, and I think the Bar association

would interest you with this as a delegate to this

meeting to conform to the circumstances as it then

existed which might be far different than at the time the

resolution was passed by the local association.

PRRSIDENT SHARP: Thank you.

Mr. Lynch?

MR. LYNCH: Just one comment. This resolution

as it is presently constituted gives the procedure by which

it can resolve such serious conflict within ten days or so.

PRRSIDENT SHARP: Thank you, Mr. Lynch.

Gentlemen, the issue is before you. The

question is: Shall we delete from 3-A the authority of

the delegates at the December meeting to vote discretionary

on amendments.

We will vote by districts.

We had better have an eight-minute recess

for the First District to caucus. Have you caucused?

MR. MITCHELL: We have.

PRRSIDENT SHARP: A vote in favor would eliminate

this provision.

The First District votes --

MR. MITCHELL: 71 votes "Yes."

PRRSIDENT SHARP: The Second District?

MR. BROWN: 88 votes "No."



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MR. FULLER: 70 votes "No."

MR. CHATLANT: We will vote 309 votes in favor

of the amendment.

MR. CHISHOLM: The Fifth District votes "No."

MR. CAVENESS: The Sixth District votes "No."

MR. STUFFLEBHAM: The Seventh District votes "No."

MR. FULLER: The motion fails and the amendment

likewise fails.

Gentlemen, are you ready for the question

on 3-A?

(Question called.)

MR. MITCHELL: We will vote by districts.

And again, have you caucused?

MR. MITCHELL: We have.

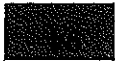
MR. MITCHELL: Both of you?

MR. MITCHELL: We would like to split our
votes, but we can't. (Laughter.) 71 votes "Yes."

MR. BROWN: In favor of 3-A.

The Second District, Mr. Brown?

MR. BROWN: 88 votes "Yes."

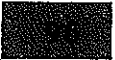


1 PRESIDENT SHARP: The Third District, Mr. Fuller?
 2 MR. FULLER: 70 votes "Yes."
 3 PRESIDENT SHARP: Fourth District?
 4 MR. CHALFANT: The Fourth District votes
 5 309 votes "Yes."
 6 PRESIDENT SHARP: The Fifth District?
 7 MR. CHISHOLM: "Yes."
 8 PRESIDENT SHARP: The Sixth District?
 9 MR. GAVENESS: "Yes."
 10 PRESIDENT SHARP: Seventh District?
 11 MR. STUFFLEBHAM: "Yes."
 12 PRESIDENT SHARP: Gentlemen! (Laughter.) I quit;
 13 3-A passes, gentlemen.
 14 And we now turn to Resolution No. 2.
 15 Mr. Fuller?
 16 MR. FULLER: I move the adoption of
 17 Resolution No. 2.
 18 PRESIDENT SHARP: The motion has been made for
 19 the adoption of Resolution No. 2.
 20 MR. CY RUDE: Second it.
 21 MR. FULLER: May I speak to this?
 22 We believe this Resolution No. 2 is a long
 23 overdue resolution that needs to be adopted by the Bar
 24 Association. We believe it will strengthen the local
 25 district bar associations by providing for official



continuous representation of each district on the Bar Commission.
 We believe that it is better for the Bar Association to reapportion itself and to have a more equitable basis for representation on the Bar Commission than the present structure.
 We believe this is something the Bar Association should do itself and not have done by a legislative committee or by the Legislature or by Court.
 We believe this plan will recognize and retain traditional units that we have had for carrying on much of the Bar business, that is, the district Bar association, because they will be the ones who will be electing the Commissioners.
 We believe this plan provides for continuity on the Bar Commission because of a three-year term on a staggered basis. We are retaining much of what is going on at the present time.
 We believe the main objection to this proposal is the alleged cost; however, I understand that the district Bar presidents quite frequently attend the mid-Winter meetings, members of special committees, sometimes with travel paid by the Bar Association and report to the Bar Commission at the various meetings. I have been in attendance in these meetings where this

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1 has happened. I have yet to see the hard evidence that
 2 nine Commissioners could not do the traveling work on the
 3 budget that lists, for example, this year's budget for
 4 Commissioners' meetings, approximately \$4,200;
 5 miscellaneous travel, \$900; and travels for others at
 6 the annual meeting at \$2,700.
 7 And I submit, gentlemen, that we should
 8 reapportion ourselves. This rule does not require a
 9 rule change, but it does require change in policy. And
 10 we believe that the committee, Mr. Miller's committee
 11 that is going to be working with the Legislature or with
 12 the Court, should bring about this change. And we
 13 respectfully submit that it is a change that is long
 14 overdue.
 15 Thank you.
 16 PRESIDENT SHARP: Thank you, Mr. Fuller.
 17 I do remind you that the three Commissioners
 18 are statutory as of now.
 19 MR. FULLER: I realize that.
 20 PRESIDENT SHARP: All right. Fine.
 21 John Bengtson points out that we have no
 22 statute, but we are statutorily appointed or created.
 23 Mr. Eberle?
 24 MR. EBERLE: Mr. President, I speak in favor also
 25 of this resolution. I would point out to the group that



1 at the present time the three divisions are divided so
 2 that the western area containing 60 per cent of the
 3 lawyers of the State elect one-third of the Commissioners.
 4 Now, it has been ten years since the United
 5 States Supreme Court said that any body exercising
 6 government power has to be on a one man, one vote basis.
 7 It is absolutely astonishing that lawyers,
 8 the keepers of the justice in the State of Idaho, has
 9 deemed a ten-year delay in reapportioning themselves,
 10 This particular resolution takes care of it. There could
 11 be more; there could be less. But this seemed to be a
 12 reasonable number to represent each of the divisions of
 13 the judicial districts and yet provide proportional
 14 representation.
 15 You know, this meeting is really a
 16 charade where less than 10 per cent of the 855 lawyers
 17 are present and voting on things and the fact that we
 18 would be making amendments that the local bar has never
 19 heard about with less than 10 per cent here and have
 20 Commissioners who represent two-thirds of the bar, by
 21 one vote can be outvoted in any manner -- and this is so
 22 essential that I would say to the Commission that while
 23 it is a matter of the Legislature to amend the statute,
 24 they will be very glad to do that because they are now
 25 under the United States Supreme Court order to properly



reapportion themselves in the same manner. So it is
obvious that unless we reapportion ourselves, we will be
reapportioned, and I think we need to make the guide as
to how it should be done.

PRESIDENT SHARP: Mr. Caveness?

MR. CAVENESS: Mr. President, the reason that
District Six moved prior to this time to defer voting on
this resolution until now was that Resolutions 2 and 3
in fact were somewhat conflicting and overlapping systems
of regulating ourselves and our association.

Now that we have passed 3-A, we have in
fact made -- if this resolution passes -- nine units in
that all of the powers would be vested in the local Bar
presidents who as delegates make all the decisions that
would affect us in our associations.

It is the position of the Sixth District that
the passage of 3-A makes moot the question of whether or
not the Resolution No. 2 should be passed. And at this
time the District Six would like to move that the
Resolution No. 2 be amended to provide in the resolution
that:

The newly organized delegate committee
established pursuant to this Resolution No. 3-A
consider the reapportionment of the Idaho State Bar

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1 as their first act of business at the October or
 2 December meeting of the delegate system.
 3
 4 Thank you.
 5 PRESIDENT SHARP: Is there a second to that motion?
 6 MR. CLARK GASSER (Pocatello): I second it,
 7 Mr. Chairman.
 8 PRESIDENT SHARP: Seconded by Mr. Gasser.
 9 Mr. Miller, did you have a point?
 10 MR. MILLER: Mr. President, I was vociferously
 11 opposed to enlarging the Commission several years ago
 12 when it was considered. I have given it second thought
 13 and I believe that this Resolution No. 2 would actually
 14 strengthen the Bar; it is not inconsistent with 3-A.
 15 It would actually enhance the participation, active
 16 participation, of lawyers in the Bar work.
 17 I don't think the idea that the change, if
 18 we had two bodies, one of whom would be the delegates to
 19 set policy and another of the Bar Commission to carry it
 20 out, would change the present status. The Bar Commissioners
 21 are supposedly carrying out the policy established by
 22 the Bar.
 23 The fact is, that the day-to-day business
 24 of the Bar is handled by the Commission, notwithstanding
 25 occasional policy decisions by the members of the Bar.



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There are some areas of the State that feel very much left out because they do not have a Commissioner. I think this Resolution No. 2 would take care of that problem. It would strengthen and enhance the participation and I think it is a good thing for particularly areas that have not had Commissioners -- in the extreme north, and the Canyon County area, and elsewhere.

I certainly urge that this body adopt the resolution.

(Question called.)

PRESIDENT SHARP: Thank you, Mr. Miller.

Mr. Lynch has been --

MR. LYNCH: Mr. Chairman, there has been a couple points raised by Mr. Caviness I would like to address myself to.

First of all, the present Rule 185 and the one just adopted in Resolution 3-A do not change in any way that I can see the effect between the membership at large and the Commission.

3-A merely preserves -- to the extent it hasn't been chipped away by amendment -- it preserves the right of the individual attorney as it always has.

So whether there are three Commissioners or nine Commissioners, that relationship to the main body of attorneys and where the authority lies has not been



changed.

2 Secondly, the Commissioners exercise a lot

3 of authority that they don't get through the Bar but

4 through the Supreme Court -- in areas of discipline and

5 in areas of admission. And as Tom pointed out, they take

6 care of the day-to-day affairs between the time the body

7 has a chance to act on resolutions or policy matters.

8 Now, on the question of delay, in 1970

9 this body asked the Commissioners within 30 days of

10 resolution to appoint a committee to study the complete

11 revamping of the rules of the Bar. They did meet and

12 suggest some, but they didn't change these other rules.

13 That committee appointed by the Commissioners never

14 reported.

15 Two years ago we had a committee appointed

16 to study the revamping of the rules of policy, and

17 nothing occurred.

18 And then last year we had a committee

19 appointed when this was referred to them, and again there

20 was no real recommendation or report. And I went ahead

21 with my own rules.

22 Now, the point is, this further delay I

23 think is just going to cause a significant problem and

24 a significant split among the members of the Bar. It

25 isn't our particular problem in Boise in connection with



this thing because we've got 37 per cent of the lawyers.
 And any time, theoretically or mathematically, we wanted
 to, we could capture one Commissioner and we could leave
 the Fifth District without a Commissioner just like the
 Third District has been left without one.
 And, actually, the last couple of years,
 Mr. Chairman, I began to appreciate what it feels like
 to be in the back of the bus rather than up in front, and
 I have developed a lot more sympathy for the problem there
 of the Third District, who has only in the history of the
 Bar had one elected Commissioner. One was elected. Some
 others have been appointed; maybe one or two other have
 been appointed.
 Now, I think that the members of the Third
 District are entitled to be heard on this thing. I think
 they are entitled to a vote. I think the lawyers back
 home who voted on these resolutions are entitled to a
 vote, because it is particularly advantageous not to delay
 this matter because the next legislative session is
 approaching and the question of reapportionment is
 approaching and somebody has got to go in and lobby for
 the bills to preserve the integrated Bar and they are
 going to have a lot better chance of doing it if they
 don't have people of the caliber of Jim Schiller over
 there fighting it and I think that we should not defer

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1 action, that we should pass this resolution and we should
 2 give these people the relief they have long been entitled to.
 3 PRESIDENT SHARP: Thank you.
 4 The question has been called, gentlemen.
 5 (A chorus of "Point of Order.")
 6 MR. EBBRLE: You have to vote on a two-thirds
 7 basis as this is a resolution amendment that hasn't been
 8 approved by the local bars or by the Resolution Committee.
 9 PRESIDENT SHARP: I think you're right. Well,
 10 in the first place, we are going to vote by weighted
 11 vote because it deals with the policy matters of the Bar.
 12 The motion before the house is in effect,
 13 and I am paraphrasing, Ben, that we postpone the -- well,
 14 really, that it be defeated and that the matter be
 15 presented to the mid-Winter meeting -- the first meeting
 16 of the delegates as set up under Rule 3-A. I think that
 17 is what it amounts to.
 18 So if you vote in favor of the amendment,
 19 you are voting to defer and do away with Resolution 2.
 20 You will vote in effect to defeat Resolution 2.
 21 (A chorus of "Noes.")
 22 PRESIDENT SHARP: Excuse me?
 23 MR. MITCHELL: No. A separate vote on each.
 24 PRESIDENT SHARP: I appreciate that. One is
 25 in effect to defer.



1 MR. BENOIT: His motion was, as I understand it,
 2 to -- what was it? Explain it a little more. (Laughter.)
 3 PRESIDENT SHARP: I am glad you understood it
 4 so well, Ed. (Laughter.)
 5 MR. MITCHELL: This time we'll listen, Ben.
 6 MR. CAVNESS: Okay. As I understand my
 7 amendment -- (laughter) -- the portion of the resolution
 8 would actually be the third paragraph:
 9
 10 Now, therefore, be it resolved that the newly
 11 organized delegate committees established pursuant to
 12 Resolution 3-A previously passed consider and take
 13 action on reappointment of the Idaho State Bar as
 14 its first order of business at its December 1973
 15 meeting.
 16
 17 PRESIDENT SHARP: Fine. I think that
 18 clarifies it, and I hope we all understand it.
 19 We will vote by districts, referring to
 20 Mr. Cavness' amendment.
 21 The First District -- excuse me.
 22 MR. RYAN: May I speak to that motion?
 23 PRESIDENT SHARP: Mr. Ryan, I defer to you at
 24 any time.
 25 MR. RYAN: The reason it makes sense to me, is --



one thing that is troubling me, I have mixed emotions
 about having nine Commissioners of a Bar of our size --
 and maybe it is good, but I think one thing we are not
 considering, and I think should be considered by the
 delegates, and I would like to put the pencil to it or
 somehow have a pencil put to it, is what it's going to
 cost the Bar to have nine Commissioners with an 800-member
 Bar.

I think it is important, for the simple
 reason that if you vote for this, it seems to me, you
 are voting at the same time the inevitable that you are
 going to have to double your dues again. We did this
 just about three years ago, \$50 to \$100.

And to support a nine-member Commission,
 it seems to me when you put the dollars with what it is
 going to cost to move these people around and the

additional mail, and so forth, that is going to be involved,
 and a lot of additional things, it's going to take a lot
 more dollars.

So I think you should consider the fact

that it is going to raise your dues to some extent. And

I would like to know to what extent. And I think you

could put a pencil to this thing, the delegates could

at the October or December meeting under 3-A and come

up with what this is going to cost. And I think we

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ought to know that. 1

I like to buy this and that, but I think 2

we always want to know what the price tag is, and there 3

is going to be a price tag on this Resolution No. 2. 4

And I tried to tell this to our own district at home, 5

and I was a minority of two at the meeting. 6

And I think this is one of the reasons we 7

should support this motion to defer this until we do put 8

a pencil to it. 9

PRESIDENT SHARP: Thank you, Hal. 10

Gentlemen, let's proceed with the vote. 11

First District? 12

MR. MITCHELL: No, we are opposed to the 13

amendment. 14

PRESIDENT SHARP: The Second District? 15

MR. BROWN: In favor of the amendment. 16

PRESIDENT SHARP: Third District? 17

MR. FULLER: "No." 18

PRESIDENT SHARP: The Fourth District? 19

MR. CHALFANT: The Fourth District votes 20

309 votes "No." 21

PRESIDENT SHARP: The Fifth District? 22

MR. CHISHOLM: "Yes." 23

PRESIDENT SHARP: The Sixth District? 24

MR. CAVENESS: "Yes." 25



time to request that the resolution be amended to provide the foreseeable future has passed. We would like at this that will affect the Bar from now, if it passes, until MR. CAVENESS: Mr. President, this matter is one

Ben?

vote, gentlemen.

PRESIDENT SHARP: All right. This is a weighted

MR. FULLER: Right.

statute. Right?

PRESIDENT SHARP: We favor the change of the

this will be the policy of the Bar.

because we are not the Legislature. All it says is that

The resolution does not change the statute, obviously,

MR. FULLER: It's really just a recommendation.

the details, but that's what it amounts to.

a Bar Commission of nine members. Now, we can go into

Resolution No. 2 is to the effect that there be created

PRESIDENT SHARP: The question has been moved.

A VOICE: Move the previous question.

We now have before us Resolution No. 2.

two-thirds majority, I think the motion fails.

Without looking at the numbers, with the

PRESIDENT SHARP: Thank you.

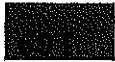
MR. STURFLBEAM: "Yes."

PRESIDENT SHARP: The Seventh District?

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1 that the matter be presented to the entire membership
 2 on a referendum vote.
 3 MR. BROWN: Second.
 4 PRESIDENT SHARP: The motion was made that rather
 5 than being passed upon here, it be passed upon by a
 6 referendum vote of all of the members of the State Bar.
 7 MR. FULLER: Mr. Chairman, I believe that is
 8 out of order, because the previous question has been
 9 moved. All we can do is vote on that.
 10 MR. BENOIT: Did you recognize it?
 11 PRESIDENT SHARP: I'm sorry, Mr. Parliamentarian,
 12 I didn't hear you.
 13 MR. BENOIT: I didn't know whether the previous
 14 motion had been recognized.
 15 MR. FULLER: It had been moved.
 16 PRESIDENT SHARP: I fear I did call the question
 17 and I fear I must --
 18 MR. BENOIT: There was no vote on the previous
 19 question. This man made a motion.
 20 PRESIDENT SHARP: All right. There's our
 21 Parliamentarian.
 22 The motion has been made that the resolution
 23 be amended and that it be submitted -- rather than being
 24 resolved here, that it be submitted to a referendum vote
 25 of the members of the State Bar.



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Is that correct, Ben?

MR. CAVENESS: Yes, that's correct.

PRESIDENT SHARP: And has that been seconded?

MR. JERRY V. SMITH (Lewiston): Second.

PRESIDENT SHARP: It has been seconded.

MR. CAVENESS: May I comment?

PRESIDENT SHARP: Go ahead.

MR. CAVENESS: As Mr. Eberle so eloquently pointed

out, there are 10 per cent, or less than that, of the

members of the Bar here today; that the matter of a

nine-man Commission by its own sponsor is at best a tenuous

choice of numbers and in fact would lead to increased cost

on all the members of the Bar, not just those in

attendance here today at this time.

I feel that it is properly a matter that is

of such major importance that all the people should have

the opportunity to vote and not just the 15 or 20 per cent

that actually attend the meeting and have a vote on this

resolution.

MR. FULLER: May I respond to that?

This resolution was circulated; it was

published in the Advocate. Those members of the Bar

who have not had notice, have just failed to read the

Bar magazine.

This is not something that the Bar has not



had notice of, and I think at this point each district had
 an opportunity to know just exactly what their position is.
 2
 3 Thank you.
 4 MR. GABBERT: Mr. Sharp, I will agree with
 5 Mr. Fuller that everyone has had notice, but I will also
 6 agree with Ben that everyone hasn't had an opportunity
 7 of voting on it.
 8 In the Fourth District we are going to cast
 9 309 votes and I've got a hunch that probably it is going
 10 to be against the amendment because of the fact that the
 11 Fourth District had a meeting in May and approved
 12 Resolution No. 2.
 13 However, that doesn't mean that the entire
 14 309 members of the Fourth District Bar voted in favor of
 15 that position. In fact, there were 50 or 60 present and
 16 the vote was split. So this would carry it forward to
 17 allowing each lawyer to vote on this question, and I would
 18 speak in favor of the amendment.
 19 MR. CHALFANT: Mr. President?
 20 PRESIDENT SHARP: Mr. Chalfant.
 21 MR. CHALFANT: I find it rather inconsistent, to
 22 say the least, to find that we have presented resolutions
 23 here which were duly passed and published, such as the
 24 third resolution, and that the determination to be made
 25 here at Sun Valley by the members that are here present



1 as a legal method of adopting a resolution, have
2 determined and passed on that resolution, and now we find
3 the same people who have won that victory turning around
4 and saying, well, we don't really represent the people and
5 now we ought to really go back and refer this to a
6 referendum.
7 Now, it seems to me a little inconsistent.
8 In one case they presume to act and in the other case they
9 say, well, we have not acted.
10 Now, that's the whole point of Resolution 3,
11 is to try and avoid this kind of determination by a small
12 measure, by a small number of lawyers to presume to act
13 for the entire membership.
14 Even under Resolution 3 it would not be
15 perfect. You are not ever going to get all the members of
16 the bar to speak or to vote on any resolution. And if
17 the bar districts have passed on a resolution, there is
18 no guarantee that all the members of that bar are in
19 conformity with the actions of that. But it has been done
20 through due process and regularity of procedure which we
21 submit are entitled to be considered. And I merely rise
22 to say that it seems to me rather inconsistent.
23 PRESIDENT SHARP: Thank you, Mr. Chalfant.
24 Mr. Redford?
25 MR. MACK A. REDFORD (Boise): Well, I agree with



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Mr. Chalfant, only to the point, however, that we voted
 in the Fourth District on the resolution. We are now
 here considering the amendment. And it is inconsistent to
 me that I, as a member of the Fourth District, must be
 bound by Mr. Chalfant's 309 ballots when I favor the
 resolution as one member of the Fourth District.

PRESIDENT SHARP: Thank you.

Gentlemen, are you --

(Question called.)

PRESIDENT SHARP: It is 12:25 Idaho Falls time
 and it is my intent, with your permission, to stay here
 until we are through. Do you want to debate further or
 do you want the question?

(Question called.)

PRESIDENT SHARP: The question has been called,
 gentlemen.

The issue before you now is whether
 Resolution 2 shall be submitted to the Bar for a
 general referendum vote. That is it. And if you vote
 in favor of the amendment, that will be the effect.

A VOICE: Two-thirds vote?

PRESIDENT SHARP: No.

MR. EBERT: Mr. Chairman, I rise to a point
 of order. This is an amendment to a resolution that has
 not been approved by the Commission or is not a



1 circulated resolution. It takes a two-thirds vote under
 2 the unit rule.
 3 PRESIDENT SHARP: I think that is a matter of
 4 procedure only, Mr. Eberle, and the Chair will rule that
 5 it takes a majority vote.
 6 MR. EBERLE: Does the Chair rule this is not
 7 an amendment?
 8 PRESIDENT SHARP: The Chair rules that obviously
 9 it's an amendment. It was proposed as an amendment.
 10 MR. EBERLE: It is a resolution, is it not?
 11 PRESIDENT SHARP: It is a matter of procedure
 12 as to whether the resolution will be amended, Mr. Eberle,
 13 and the Chair rules that it takes a majority vote.
 14 Mr. Thomas?
 15 MR. THOMAS: Mr. Chairman, I think that we really
 16 need a moment to count the votes of this Boise Bar.
 17 PRESIDENT SHARP: I will give you a moment. Okay?
 18 Please, just a moment.
 19 (Short recess.)
 20 PRESIDENT SHARP: Gentlemen, if you will resume
 21 your seats, we will proceed with the business.
 22 Gentlemen, the issue before the House on a
 23 unit vote is whether or not Resolution No. 2 will be
 24 referred to the Bar for a general vote.
 25 We vote on a unit vote.



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as you seconded it, Tom. Let's hear from Allyn.

PRESIDENT SHARP: Mr. Dingel was on his feet just

MR. MILLER: Second the motion.

PRESIDENT SHARP: The question has been moved.

MR. FULLER: I move the question.

adoption of Resolution No. 2.

The question now before the House is the

PRESIDENT SHARP: It failed.

COMMISSIONER NELSON: Failed.

I will let my mathematicians verify it.

PRESIDENT SHARP: I think the resolution failed.

MR. STURFLBHAM: "Yes."

PRESIDENT SHARP: Seventh District?

MR. GAVENESS: "Yes."

PRESIDENT SHARP: The Sixth District?

MR. CHISHOLM: "Yes."

PRESIDENT SHARP: The Fifth District?

MR. CHALFANT: The Fourth District votes "No."

PRESIDENT SHARP: The Fourth District vote?

MR. FULLER: "No."

PRESIDENT SHARP: The Third District vote?

MR. BROWN: "Yes."

PRESIDENT SHARP: The Second District vote?

MR. MITCHELL: "No."

The First District vote?



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and never remember a dissenting vote after we have all

handle it. I have been on the Commission for three years

that we feel very sincerely that three Commissioners can

PRESIDENT SHARP: Let me just simply say this:

(A chorus of "Yesses.")

PRESIDENT SHARP: Is the group interested?

your present thought?

operator? Can you handle it financial-wise? What is

Can it work? Can it not work? Can it

believe about this resolution.

expression of what the President and Board of Commissioners

the Bar is entitled, at least myself personally, to the

think a matter of this import, President John -- I think

gentlemen and a fourth coming on, and Ron Kull there, I

The matter of this inquiry, I see three fine

MR. DINGEL: Thank you, sir.

PRESIDENT SHARP: Go ahead.

for; can I ask a point of inquiry from the Bar Commission?

President John, the question has been called

(Laughter.)

I'll start stuttering and I will be here until 3:00 o'clock.

MR. DINGEL: If you're not a good boy, Ted,

PRESIDENT SHARP: Ted, I thank you.

remove his hat when addressing the Chair? (Laughter.)

MR. EBRLER: Point of order. Shouldn't he



1 discussed and thoroughly understood the problem.

2 I can never remember there having been

3 a vote -- "Well, this is the way my people feel, and you

4 people feel differently, and I am going to vote for my

5 area." I don't think anybody seriously suspects there

6 has been such a suggestion.

7 I frankly think that three can handle it

8 better than nine, and Allyn, my particular reason for it

9 is that three of us are able to get together and meet --

10 MR. EBHRLB: Mr. Chairman, it is improper for

11 a chairman to argue a motion without --

12 PRESIDENT SHARP: I am not arguing a motion.

13 MR. EBHRLB: You are, sir.

14 PRESIDENT SHARP: All right, Ted, I'm arguing

15 a motion. I was asked to give my opinion, and I do.

16 MR. EBHRLB: You should relinquish the Chair

17 in that event.

18 PRESIDENT SHARP: Suffice it to say, I will

19 relinquish the Chair to Mr. Bengtson.

20 May I speak to the motion, Mr. Bengtson?

21 COMMISSIONER BENGTSON: Mr. Sharp, proceed.

22 PRESIDENT SHARP: Thank you. Another 30 seconds

23 is all I have in mind.

24 I don't think we are sectionalized or

25 regionalized and I think three busy lawyers can get



1 together much more easily than nine.
 2 I don't say that nine won't work. And if the
 3 Bar wants nine members, that's just fine, and I'm off;
 4 it isn't going to matter.
 5 Costwise, obviously, it is going to cost
 6 something for somebody to come from Idaho Falls, somebody
 7 from Pocatello, somebody from Lewiston, somebody from
 8 Coeur d'Alene. I'm not going to make a comment on that;
 9 I don't know.
 10 May I resume the Chair?
 11 COMMISSIONER BENGTSON: Yes.
 12 PRESIDENT SHARP: Thank you.
 13 Any further questions or comments?
 14 The question before the House is the
 15 adoption of Resolution No. 2. It affects the policy of
 16 the Bar and goes by weighted vote.
 17 The First District, as to the adoption of
 18 Resolution No. 2.
 19 MR. MITCHELL: The delegation itself will cast
 20 the vote.
 21 MR. STEPHEN F. BELL (Coeur d'Alene): The
 22 First District casts 71 votes "No."
 23 PRESIDENT SHARP: 71 votes "No."
 24 The Second District?
 25 MR. BROWN: "No."



PRESIDENT SHARP: The Third District?

MR. FULLER: 70 votes "Yes."

PRESIDENT SHARP: Fourth District?

MR. CHALFANT: 309 votes "Yes."

PRESIDENT SHARP: Fifth District?

MR. CHISHOLM: 121 "No."

PRESIDENT SHARP: Sixth District?

MR. CAVENESS: Seventy-something "Yes" -- "No."

PRESIDENT SHARP: Is the vote of the Sixth District

"Yes" or "No"?

MR. CAVENESS: The vote of the Sixth District

is 75 "No."

PRESIDENT SHARP: Thank you.

The Seventh District?

MR. STUFFLEBEAM: "No."

PRESIDENT SHARP: The resolution fails.

Gentlemen, we turn to the fourth resolution

and to Mr. Clements.

CHAIRMAN CLEMENTS: Gentlemen, thank you.

President Sharp, the fourth resolution is

printed, and if I hear no comment --

MR. GABBERT: I move to waive the reading of

the resolution.

A VOICE: Second.

PRESIDENT SHARP: Those in favor?

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(A chorus of "Ayes.")

PRESIDENT SHARP: Opposed?

Thank you.

CHAIRMAN CLEMENTS: The resolution essentially

calls for a CLB meeting in lieu of the annual meeting as

we know it.

Mr. Lynch?

MR. LYNCH: Mr. Chairman, I believe it calls for

a vote of the members to express an opinion to be

considered by the Commissioners on whether they have a

CLB meeting as opposed to this, and I would hope that

those favor a referendum vote would favor the supporting

of this resolution which was circulated and all the time

called for a referendum vote.

CHAIRMAN CLEMENTS: All right. The resolution

was voted on by the Resolution Committee. The

recommendation was that this resolution not pass.

And I would move the adoption of the

committee's report and that the resolution not pass.

MR. MITCHELL: Second, Mr. Chairman.

PRESIDENT SHARP: There is a second, gentlemen.

Is there a comment concerning this resolution?

(Question called.)

PRESIDENT SHARP: The question has been called.

It is by weighted vote. If you vote in



1 favor of the motion, the resolution will not be adopted.
 2 You are voting "Yes, I do not adopt it," is about what
 3 it amounts to. We vote by weighted vote.
 4 The First District?
 5 MR. MITCHELL: 71 votes "Yes."
 6 PRESIDENT SHARP: The Second District?
 7 MR. BROWN: 88 votes "Yes."
 8 PRESIDENT SHARP: The Third District?
 9 MR. FULLER: "Yes."
 10 PRESIDENT SHARP: The Fourth District?
 11 MR. CHALFANT: I vote "Yes."
 12 PRESIDENT SHARP: The Fifth District?
 13 MR. CHISHOLM: "Yes."
 14 PRESIDENT SHARP: The Sixth District?
 15 MR. CAVENESS: "Yes."
 16 PRESIDENT SHARP: The Seventh District?
 17 MR. STUFFLEBEAM: "Yes."
 18 PRESIDENT SHARP: Thank you, gentlemen.
 19 The resolution fails.
 20 MR. LYNCH: Point of order. I think there was
 21 a mistake in recording the vote. At least our own Bar
 22 ought to be recorded in support of the resolution, being
 23 its resolution.
 24 PRESIDENT SHARP: Mr. Chalfant?
 25 MR. CHALFANT: What was the question? (Laughter.)



1 PRESIDENT SHARP: Let me ask you this; I will
 2 summarize it: Are you in favor of Resolution No. 47
 3 MR. CHALFANT: It is our resolution. I said "Yes."
 4 PRESIDENT SHARP: All right. Well, you
 5 misunderstood. We will cast the Boise vote opposed to the
 6 report, but the motion will pass.
 7 We go to No. 5.
 8 CHAIRMAN CLEMENTS: Incidentally, I do want to
 9 say I have worked on this Resolution Committee for three
 10 years and this matter of the annual meeting of the CLH
 11 meeting, and so forth, having come up during that time,
 12 I wanted to disabuse myself of one thing that I discovered
 13 after three years, and that was the CLH meeting they were
 14 referring to was not Chalfant, Lynch & Eberle. (Laughter.)
 15 Now, with regard to Resolution No. 5. This
 16 has to do with an affiliate membership. Does anybody desire
 17 the resolution be read as printed?
 18 MR. BROWN: Mr. Chairman, I move the reading
 19 of the resolution be dispensed with.
 20 PRESIDENT SHARP: Is there a second?
 21 A VOICE: Second.
 22 PRESIDENT SHARP: Those in favor of waiving the
 23 reading of the resolution say "Aye."
 24 (A chorus of "Ayes.")
 25 PRESIDENT SHARP: Opposed?



1 It carries.

2 CHAIRMAN CLEMENTS: Mr. President, the Resolution

3 Committee met, discussed, and resolved that this

4 resolution should be passed, and that is the committee's

5 report and recommendation, and I so move.

6 MR. MITCHELL: Second.

7 PRESIDENT SHARP: Thank you, gentlemen.

8 This has to do with -- perhaps you may not

9 know, if you haven't carefully reviewed it, but -- an

10 affiliate member of the Bar, if he is a member of the

11 Idaho Bar and moves from the State, he only pays a \$25 fee.

12 The resolution has been moved and seconded

13 that it be adopted.

14 (Question called.)

15 PRESIDENT SHARP: Mr. Hyser.

16 MR. PETER HYSER (Boise): It is my understanding

17 that the way this resolution reads, that a member of the

18 Idaho State Bar who ceases to be a bona fide resident of

19 the State of Idaho would automatically fall into the

20 category of affiliate membership and would not be allowed

21 to practice in the State until he resumed his bona fide

22 residency within the State and paid his regular membership

23 dues, and that if a person had residence outside the

24 State for a period of three years, that he would have to

25 submit evidence of good moral character, and what have you.



1 Gentlemen, I think that in certain areas of
2 Washington, we perhaps create a problem -- maybe I'm
3 wrong -- but I think we may have attorneys who are licensed
4 to practice in the State of Idaho by virtue of the fact
5 that they might reside in Clarkston, Washington, have
6 just gotten themselves out of the Idaho Bar and put
7 themselves into an affiliate membership by virtue of
8 having a bona fide residency in the State of Washington
9 perhaps as opposed to a bona fide residency in the State
10 of Idaho, although they may maintain an office in the
11 State of Idaho where one can practice or be a bona fide
12 resident of two states at one time.
13 PRESIDENT SHARP: Mr. Hyser, I call your attention
14 to the Idaho Code 301 that says that any resident of the
15 State of Idaho might have a license. The Code specifically
16 provides that he must live in this State in order to have
17 a license. So, really, this makes no change.
18 MR. HYSER: Well, I wonder, can a person live in
19 two states at once? Is there a possibility?
20 PRESIDENT SHARP: Well, that will make a good
21 Bar exam question.
22 The question has been called, gentlemen.
23 The question has been called on Resolution No. 5 as to
24 whether we adopt it. It is by unit vote whether we
25 have this affiliate members so those who live out of the



1 state need not pay the full fee.

2 We will call the First District.

3 MR. MITCHESS: "Yes."

4 PRESIDENT SHARP: The Second District?

5 MR. BROWN: "Yes."

6 PRESIDENT SHARP: The Fourth District?

7 Or, excuse me; did I call the Third? Excuse me.

8 MR. FULLER: I thought you had forgotten us.

9 PRESIDENT SHARP: You thought I would never ask.

10 MR. FULLER: We were going to vote "Yes."

11 PRESIDENT SHARP: Thank you.

12 The Fourth is caucusing.

13 The Fifth?

14 MR. CHISHOLM: "Yes."

15 PRESIDENT SHARP: The Sixth?

16 MR. CAVENESS: "Yes."

17 PRESIDENT SHARP: The Seventh?

18 MR. STUFFLEBHAM: "Yes."

19 PRESIDENT SHARP: Gentlemen, the motion has

20 carried. Your caucus need be ended.

21 MR. FULLER: Mr. Chairman?

22 PRESIDENT SHARP: Do you care to vote, Frank?

23 MR. CHALFANT: The Fourth District votes in favor.

24 PRESIDENT SHARP: Thank you.

25 The motion carries unanimously.



Mr. Fuller?

MR. FULLER: Yes. I wanted to make note of

that Freudian slip where you omitted the Third District.

(Laughter.)

PRESIDENT SHARP: I am well aware of it, and

I apologize.

The sixth resolution.

CHAIRMAN CLEMENTS: Gentlemen, the sixth

resolution and 6-A were considered in conjunction with

each other. Is there any desire that these be read?

(A chorus of "Noes.")

CHAIRMAN CLEMENTS: There was no change in the

printed order.

I would like to make this statement, however,

with regard to Resolution No. 6, this was properly proposed

by Matt Mulhane who informed me and I have his consent

to advise this group that that resolution has in fact been

withdrawn.

And Resolution 6-A, which essentially deals

with the same subject matter of the Resolution 6,

excepting as to the financing, is still on there.

Now, when this was discussed by the

Resolutions Committee, the vote was taken and it was the

consensus of the Resolution Committee that both 6 and 6-A

be not passed, and I so move this body.

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MR. MITCHELL: Second.

PRESIDENT SHARP: There is a second to the motion.

Is there any discussion concerning the motion?

(Question called.)

MR. MULLANEY: Mr. Sharp, I would like to discuss

the motion.

PRESIDENT SHARP: All right. Go ahead; it's

only fair.

MR. MULLANEY: My name is Matt Mulaney and

I am from the Boise Bar, and I was the mover of

Resolution 6 and I also moved Resolution 6-A before

the Boise Bar, and the Boise Bar adopted the resolution.

I am aware of the objections of the

Resolutions Committee and some of the local district

associations to Resolution 6-A.

And I would, Mr. Sharp -- it is my desire

to amend Resolution 6-A in order to meet what I think are

the objections to the resolution in an effort to preserve

some resolution for action by the membership here today.

And I would move that Resolution 6-A be

amended as follows: On Page 132, the second resolution

paragraph -- in other words, the first resolution

paragraph and now:



BE IT FURTHER RESOLVED -- my motion, I would add
thereto, an additional resolution paragraph as follows:

BE IT FURTHER RESOLVED that each district bar
association is encouraged to give serious consideration
to establishing a local Young Lawyers Section as a
means of advancing the purposes enumerated in this
resolution.

I would further amend Resolution 6-A by
the striking the semicolon at the end and inserting a
comma and adding:

...and who are members of a local Young Lawyers

Section which membership may be further defined by

each district bar association not inconsistent therewith.

And, further, on Page 133, in the first full
paragraph thereof, to strike in the second section:

...with a view toward local bar funding...

And, finally, to delete the next paragraph
which addresses itself to funding, and to substitute this
paragraph:

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BE IT FURTHER RESOLVED that local Young Lawyers Sections be funded at the discretion of each district bar association by local bar contributions, section membership dues, or a combination thereof, sufficient to carry out the activities of the section, and that these monies may also be used for interdistrict programs and activities.

If I could have a second, I would explain the import of that.

MR. MITCHELL: Second.

MR. MULLANEY: Mr. Chairman, as I understand concerning the Resolutions Committee, it was not so much with the establishment of a statewide Young Lawyers Section as it was probably with the funding of the section, and, in particular, the funding of the local section. The amendment that I have offered here gives to each district, No. 1, the discretion to establish or not establish a Young Lawyers Section as it sees fit. It is not mandatory that each district establish a Young Lawyers Section, either under 6-A or my amendment. The amendment, I think makes it more clear. Moreover, my amendment also makes it clear that each district in its discretion can fund a Young Lawyers Section either by virtue of a local bar

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1 contribution only, membership dues only, or a combination.

2 As a point of information, the Fourth District

3 Bar has established a Young Lawyers Section and is presently

4 funding that with a local bar contribution only in an

5 authorized amount up to \$300.

6 But I can recognize that there are other

7 Bars, other districts within the State, who may choose to

8 establish Young Lawyers Sections in order to integrate

9 young lawyers into the Bar but who may not have sufficient

10 funds to adequately support the section and that it would

11 be appropriate for that section to have a membership dues.

12 And my amendments are to the resolution 6-A

13 in an effort to address the objections of the Resolutions

14 Committee.

15 PRESIDENT SHARP: Thank you.

16 Any further comments concerning the

17 amendment? You have heard it; you understand it,

18 gentlemen, as well as I do, in the detail as the principle.

19 Yes?

20 MR. PAUL BUSER (Boise): Mr. Sharp, my name

21 is Paul Buser from the Boise Bar.

22 PRESIDENT SHARP: Yes.

23 MR. BUSER: I would like to make a comment. I

24 do want to support Mr. Mullaney's suggested amendment

25 to this resolution and would like to make a little further



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comment on this resolution.
There seems to be some misunderstanding as
to the reasons why we drafted this resolution. I know
there are some attorneys, even within the Boise Bar
Association, who feel that this is being supported by a
number of the younger members of the Bar, but this isn't
the entire picture.
When we talk about Young Lawyers Section,
we in fact mean new lawyers who have been admitted to the
Idaho Bar. Part of the reason we drew this resolution up
is to draw some of the practical problems of young and
new lawyers in Idaho. Many of the seminars that Mr. Kull
has been able to develop in this last year have been good
and excellent for older and more established members of
the Bar, but they don't specifically address a lot of the
practical problems of young and new lawyers in the State.
For example, we would like to help the
Bar Association create continuing legal aid programs for
young and new lawyers in the State on problems, such as
legal drafts, trial tactics, developing lawyer fee
contracts with clients. There are very many practical
aspects of practicing law in Idaho that you don't learn
in law school, and this was addressed, I think, in the
latest addition of the Advocate. So this is not a protest
of any sort. In fact, we want to recognize the importance



1 of staying within the Association.

2 And I want to wholeheartedly support

3 Mr. Mullaney's resolution today and I do hope that

4 everyone gives it serious consideration.

5 PRESIDENT SHARP: Thank you, Mr. Buser.

6 Anything further, then?

7 Yes, Mr. Hyser.

8 MR. HYSER: Peter Hyser, Boise.

9 I fall into a strange category of qualifying

10 by virtue of recent membership in the Bar as a -- what

11 would fall in the young lawyers group although by

12 chronological age I guess I'm not a young lawyer.

13 Perhaps there has been some misunderstanding

14 by misnomer. There are organizations in other state Bars

15 that have been known or district Bars within other states

16 that have been known as Barrister Clubs, and by other

17 names. Their program of these groups, and I think the

18 program that is intended by the young lawyers group as

19 proposed here, is to establish, among other things, a

20 continuing program that would "bridge the gap" between

21 the theoretician who has just graduated from law school

22 or who has just been admitted to practice in this State

23 and the practitioner, who, by virtue of his experience of

24 some years in the Bar, has learned the nuts and bolts

25 of everyday practice and procedure.



And I think there is also an educational function that can be carried on by the Young Lawyers Section, by carrying messages of the Bar and the activities of the State Bar and the Young Lawyers Section within the State Bar to the schools, to service organizations, to clubs, and particularly in the schools by people who aren't that far out of the schools, so that there is perhaps a little better bridge of communication.

So I would go on record as recommending the passage of a form of Young Lawyers Section so that the services can be provided, working within the framework of the Idaho State Bar, hopefully contributing to the growth and professionalism within the Idaho State Bar.

Thank you.

PRESIDENT SHARP: Thank you.

Mr. Thomas?

MR. THOMAS: Mr. Chairman, I would like to ask Reed Clements, as Chairman of the Resolutions Committee, whether these amendments do respond to the objections that the Resolutions Committee had. Thank you.

CHAIRMAN CLEMENTS: Mr. President, and Mr. Thomas: Yes, they do. We were not against the proposal and proposition of having a Young Lawyers Section of the Bar. We did feel that the financing of that was the objectionable feature and, in theory, we would not, in my opinion --

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I would speak for the Resolution Committee -- would not

be adverse to the amendment offered by Mr. Mulihaney.

PRESIDENT SHARP: Thank you.

Gentlemen, are you ready for the question?

(Question called.)

PRESIDENT SHARP: Let's vote on the amendment

first. Let's vote by voice vote of the group.

Those in favor of the amendment signify

by saying "Aye."

(A chorus of "Ayes.")

PRESIDENT SHARP: Those opposed?

The amendment is carried.

The issue now before us is the Resolution

No. 6-A which would in effect create a Young Lawyers

Section. This is a policy matter and will be by district.

Are you ready for the question?

(Question called.)

PRESIDENT SHARP: The First District?

MR. MITCHELL: All the young lawyers on our

delegation walked out, so I vote "No." (Laughter.)

PRESIDENT SHARP: That will teach them.

The Second District?

MR. BROWN: "Aye."

PRESIDENT SHARP: The Third District?

MR. FULLER: "Yes."

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PRESIDENT SHARP: Fourth District?

MR. CHALFANT: Votes "Aye."

PRESIDENT SHARP: The Fifth District?

MR. CHISHOLM: "Yes."

PRESIDENT SHARP: The Sixth District?

MR. CAVENESS: "Yes."

PRESIDENT SHARP: The Seventh District?

MR. STUFFLEBEAM: "Yes."

PRESIDENT SHARP: Thank you. The motion carries.

Gentlemen, stay with us; we don't have

much more.

CHAIRMAN CLEMENTS: The next proposal is

Resolution No. 7. It's a short resolution.

Does anybody desire that it be read?

(A chorus of "Noes.")

CHAIRMAN CLEMENTS: The report of the Resolution

Committee is unanimously that this resolution be rejected,

and I so move.

(A chorus of "Seconds.")

PRESIDENT SHARP: In case there is any question,

the import of the resolution is to eliminate the Idaho

State Bar.

We will vote by district.

The First District?

MR. MITCHELL: May I address myself briefly



1 concerning this? I do think that we would be remiss if
 2 someone from the committee didn't explain to the
 3 membership here the apparent purpose the author of the
 4 amendment had.
 5 He went to the trouble to do what a lot of
 6 people who draft resolutions don't do: He came to the
 7 committee and he explained in some detail, as I understand
 8 it. I have no question concerning his motives. I do
 9 agree with the Chair that the effect of this would be to
 10 do away with the Idaho State Bar or in fact need to be
 11 licensed or trained to be a lawyer. It has some good
 12 side-effects but apparently would do the same thing to
 13 doctors, and you might keep that in mind.
 14 PRESIDENT SHARP: Gentlemen, let's vote
 15 by district.
 16 The first District?
 17 MR. MITCHELL: "No."
 18 PRESIDENT SHARP: Second District?
 19 MR. BROWN: "No."
 20 PRESIDENT SHARP: Third District?
 21 COMMISSIONER NELSON: A vote "No" is a vote for
 22 the resolution.
 23 PRESIDENT SHARP: I'm sorry.
 24 The motion is that the resolution be
 25 defeated. And so if you vote "Yes," you mean "No."



conducted an investigation of the lambrook industry
WHEREAS, the Federal Trade Commission has

RESOLUTION 8

gentlemen. I will read them because they are not printed.

CHAIRMAN CLEMENTS: They are very brief,

Now, we have No. 8 and 9; they are brief.

the resolution is defeated.

PRESIDENT SHARP: And by unanimous "Yes" vote

MR. STUFFLEBHAM: "Yes."

PRESIDENT SHARP: The Seventh District?

MR. CAVENESS: "Yes."

PRESIDENT SHARP: The Sixth District?

MR. CHISHOLM: "Yes."

PRESIDENT SHARP: Fifth District?

MR. CHALFANT: "Yes."

PRESIDENT SHARP: The Fourth District?

MR. FULLER: "Yes."

PRESIDENT SHARP: The Third District?

MR. BROWN: Likewise.

Second District?

PRESIDENT SHARP: You vote "Yes."

so I vote "Yes."

MR. MITCHELL: Well, I got it out of my system,

(Laughter.)

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1 In 1969 and has issued proposed guides for the
 2 regulation of that industry on February 23 of this
 3 years; and
 4 WHEREAS, it is likely that the proposed guides
 5 issued by the Federal Trade Commission would help
 6 substantially to eliminate many practices which many
 7 members of our profession consider objectionable; and
 8 NOW, THEREFORE, be it resolved by the Idaho
 9 State Bar Association that:
 10 1. The Federal Trade Commission is urged to
 11 adopt the proposed guides that were issued
 12 February 23, 1973, for the lawbook industry;
 13 2. The Federal Trade Commission is urged to
 14 add to the guides the requirement that lawbook
 15 advertisements contain the prices of the books thereby
 16 advertised;
 17 3. The Federal Trade Commission is urged to
 18 continue its investigation in the lawbook industry,
 19 the excessive proliferation of material issued by
 20 the industry, the lack of competition within the
 21 industry, and the concentration of the industry and
 22 its control in a relatively few companies that are
 23 owned and operated by a relatively few people; and
 24 BE IT FURTHER RESOLVED, that the Executive
 25 Secretary of the Idaho State Bar Association cause a



1 copy of this resolution to be published in
 2 "The Advocate", and that he further mail a copy
 3 of the same to each of the five members of the
 4 Federal Trade Commission, to each United States
 5 Senator and Representative from Idaho, and to the
 6 President of the American Bar Association.
 7
 8 This was a resolution originating in the
 9 committee by two-thirds vote of that committee, and we
 10 urge its passage to this Bar.
 11 PRESIDENT SHARP: Thank you.
 12 Is there a second?
 13 MR. MITCHELL: Second.
 14 PRESIDENT SHARP: Any discussion?
 15 (Question called.)
 16 PRESIDENT SHARP: It is not a policy matter.
 17 Those in favor of the resolution say "Aye."
 18 (A chorus of "Ayes.")
 19 PRESIDENT SHARP: Those opposed say "No."
 20 A VOICE: No.
 21 PRESIDENT SHARP: It is carried with one
 22 dissenting vote.
 23 Now, a final one, and, Reed, I think it
 24 is short -- you have two more.
 25 CHAIRMAN CLEMENTS: Gentlemen, Resolution 9.



(A chorus of "Ayes.")

Those in favor of the resolution say "Aye."
no Bar policy matter involved. It will go by voice vote.
PRESIDENT SHARP: There is no dispute; there is

(Question called.)

Is there any discussion?

PRESIDENT SHARP: There is a second.

MR. MITCHELL: Second.

committee and we move its passage.

attention of the committee. This is a resolution by the

This is a matter that was brought to the

program.

in establishing a statewide statutory certification

the efforts of the shorthand reporters of our State

State Bar Association that we endorse and support

BE IT RESOLVED by the Membership of the Idaho

shorthand court reporters;

admission, education, training, or competency of

have any laws, rules or regulations governing the

WHEREAS, the State of Idaho does not presently

the integrated bar, and

adversary proceedings is of utmost importance to

WHEREAS, accurate shorthand transcription of

RESOLUTION 9

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23	Idaho Title Company
22	Capitol Title Company
21	Callaghan and Company
20	First Security Bank of Idaho
19	Carroll's
18	Idaho First National Bank
17	Philip H. Peterson
16	Larry D. Ripley
15	Honorable Donald Lay
14	Professor Lawrence P. King
13	Robert W. Meserve
12	Samuel Kaufman Jr.
11	Dean Eugene F. Scoles
10	Bar Association.
9	and the expressing of the appreciation of the
8	going to read those to whom these resolutions are accorded
7	With your permission, Mr. President, I am
6	here.
5	time and talents and gratuities at some of our activities
4	have resolutions thanking those who have given of their
3	CHAIRMAN CLEMENTS: In the interest of time, we
2	The resolution carries.
1	PRESIDENT SHARP: Those opposed, if any?



I urge the passage of these resolutions,

and so move.

MR. BROWN: Second.

PRESIDENT SHARP: I hardly think it involves

policy, gentlemen. Those in favor --

MR. CHALFANT: I think there is a glaring

omission in that resolution. I think some thanks should

be given to the Boise Bar for creating interest in this

annual meeting. (Laughter and applause.)

PRESIDENT SHARP: Frank, do you want that as

an amendment, because it is a policy thing. (Laughter.)

Those in favor of the motion say "Aye."

(A chorus of "Ayes.")

PRESIDENT SHARP: Opposed?

Thank you.

CHAIRMAN CLEMENTS: Mr. President, that concludes

the report of the Resolution Committee.

PRESIDENT SHARP: Thank you, Reed, and our

sincere thanks.

Gentlemen, is there any business you have

to bring before the convention?

May I introduce to you with pleasure the

new Bar Commissioner from the eastern district, who is

already standing, so he needn't do it specially,

Jerry Olson. (Applause.)

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(The proceedings were concluded at 1:00 p.m.)

PRESIDENT SHARP: We are. (Applause.)

meeting.

(To President Sharp): You adjourn the

have recognized what John has done.

a very difficult one. And you have recognized it, you

This has been quite a year, as you know;

your badge now. (Laughter.)

Tom and me, we want to present you with a silver star on

PRESIDENT-ELECT BENGTSON: John, on behalf of

(Applause.)

And certainly, to your benefit, John Bengtson.

PRESIDENT SHARP: Gentlemen, it's been a pleasure.

(Standing applause.)

(A chorus of "Seconds.")

we appreciate very much all that you have done.

I for one, and I am sure I speak for all --

as have all the other Commissioners.

great courage and great empathy for the Bar of the State,

that he is going out in a blaze of yellow. He has shown

who has given his all, and I dissent from his statement

and particularly the outgoing President, Mr. John Sharp,

the Commissioners and officers of the Idaho State Bar,

this body adopt a resolution of appreciation to all of

MR. MILLER: Mr. President, I would move that

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