

Proceedings of the
Idaho State Bar

VOLUME XLI, 1967

Forty-First Annual Meeting
Coeur D'Alene, Idaho
July 6-7-8, 1967

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PAST COMMISSIONERS

Western Division

JOHN C. RICE, Caldwell, 1923-25
FRANK MARTIN, Boise, 1923-25
JESS HAWLEY, Boise, 1927-30
WM. HEALY, Boise, 1930-33
JOHN W. GRAHAM, Twin Falls,
1933-36
J. L. EBERLE, Boise, 1936-39
C. W. THOMAS, Burley, 1939-42
E. B. SMITH, Boise, 1942-48
CLAUDE V. MARCUS, Boise,
1949-51

T. M. ROBERTSON, Twin Falls,
1951-54
WILLIS E. SULLIVAN, Boise,
1954-57
SHERMAN J. BELLWOOD, Rupert,
1957-60
GLEN A. COUGHLAN, Boise,
1960-63
EDWARD L. BENOIT, Twin Falls,
1963-66
NICHOLAS G. SPEROPULOS,
Weiser, 1966-67

Eastern Division

N. D. JACKSON, St. Anthony,
1923-25
A. L. MERRILL, Pocatello, 1925-28
WALTER H. ANDERSON,
Pocatello, 1928-34
E. A. OWENS, Idaho Falls, Pocatello,
1934-40
L. E. GLENNON, Pocatello, 1940-43
PAUL T. PETERSON, Idaho Falls,
1943-46
R. D. MERRILL, Pocatello, 1946-49

RALPH LITTON, St. Anthony,
1949-52
L. F. RACINE, Jr., Pocatello,
1952-55
GILBERT ST. CLAIR, Idaho Falls,
1955-58
J. BLAINE ANDERSON, Blackfoot,
1958-61
WESLEY F. MERRILL, Pocatello,
1961-64
R. V. KIDWELL, Idaho Falls,
1964-67

Northern Division

ROBERT D. LEEPER, Lewiston,
1923-26
C. H. POTTS, Coeur d'Alene,
1926-29
WARREN TRUITT, Moscow,
1929-32
JAMES F. AILSHIE, Coeur d'Alene,
1932-35
A. L. MORGAN, Moscow, 1935-38
ABE GOFF, Moscow, 1938-41
PAUL W. HYATT, Lewiston,
1941-44

E. H. KNUDSON, Coeur d'Alene,
1944-47
E. E. HUNT, Sandpoint, 1947-49
ROBERT E. BROWN, Kellogg,
1949-53
RUSSELL S. RANDALL, Lewiston,
1953-56
CLAY V. SPEAR, Coeur d'Alene,
1956-59
MARCUS J. WARE, Lewiston,
1959-62
ALDEN HULL, Wallace, 1962-65

Present Commissioners and Officers

JERRY V. SMITH, Lewiston, President
HAROLD L. RYAN, Weiser, Vice President
LAMONT JONES, Pocatello, Commissioner
FRANK T. ELAM, Boise, Executive Director

Shoshone County (1st District)—Robert Robson, Kellogg
Clearwater (2nd and 10th Districts)—John Bengston, Lewiston
Third District Bar—T. J. Jones, III, Boise
Fourth and Eleventh Bar Association—Lloyd J. Webb, Twin Falls
Fifth District—Clark Gasser, Pocatello
Sixth District—Jack B. Furey, Challis
Seventh District—John K. Gatchel
Eighth District—Scott Reed, Coeur d'Alene
Ninth District—Orval Hansen, Idaho Falls
Twelfth District—Mary Smith, Rexburg
Thirteenth District—E. L. Scott, Malad

The Idaho State Bar Convention for 1967

HELD AT COEUR D'ALENE, IDAHO — JULY 6-7-8

MR. KIDWELL: May I have your attention. The annual meeting is now in session. We'll have the invocation delivered by Father Wanamaker of the St. Luke's Episcopal Church here in Coeur d'Alene; Father Wanamaker.

FATHER WANAMAKER: Let us pray. O Savior of the world who didst come to bring abundant life to all mankind. We pray then that all who here on earth possess abundance may desire it so keenly for others that unjust conditions may become intolerable to all those who love Thee. That thy followers may by sharing become rich toward God and just toward all men. Grant all members of this Bar Association grace fearlessly to contend against evil and to make no peace with oppression and that we may reverently use our freedom; help them to employ it in the maintenance of justice among men and nations to the glory of thy Holy Name. We bless Thee for all who give themselves to Thee in service to their fellow man, particularly those members of this Bar Association now in session. Grant unto them clear vision, true judgment, with great daring as they seek to right the wrong and so endue them with cheerful love that they may minister to the suffering and forlorn, even as thou wouldst. All of this we ask in Jesus' name. Amen.

MR. KIDWELL: Thank you, Father Wanamaker. And we are honored to have as a welcoming committee for the Idaho State Bar the Honorable L. L. Gardner, Mayor of Coeur d'Alene, Mayor Gardner.

MAYOR GARDNER: Mr. Kidwell, gentlemen at the head table, and honored guests, and you local folks, I think first I should say you are welcome and that's the truth. It's a little bit different than I understand in a court case one time that the prisoner turned to the judge and said: "Judge, I just don't know what in the world to do," and the judge says, "Why, how's that;" and the prisoner says, "well, I swore to tell the truth, and every time I try to say something some lawyer objects." Now, I hope that nobody will object to my telling the truth in this case. You are welcome to our city and we hope that you will really enjoy yourselves. There are many things of interest that should be of interest and a pleasure to you in the area and we hope you will avail yourselves of these opportunities to enjoy yourselves while you are here. The idea being that if you really do enjoy yourselves we hope that you will come back again, and soon. I understand the last time you were here was in 1938, but for heaven's sakes don't wait 29 years to come back again. The way the town is growing and progressing you wouldn't know it in 29 years anyway, so please come back at least every couple of years and visit with us. I have been told you have a very good registration and a large number here for the convention and while I don't see a great number here right now, I can understand why. I think when you realize what nice weather we have at this present time people can't be blamed for being hot and enjoying it as much as possible. Father Wanamaker and I, knowing you were coming, we have been working on the weather for more than a week and the weatherman decided

to contradict us—he says there is a chance for showers tonight, but Father and I were talking it over and we said to ourselves we'll work the same combination we have in the past and we'll get good weather arranged for you. So, if it stays nice, then you can just thank Father Wanamaker and me for this.

Well, I hope you are very successful in your deliberations and I want you to know that the general public appreciates what you do and I just hope you have a real royal good time and that you do come back and see us right often. Thank you. Oh yes, in case anyone should get a parking ticket or anything of that sort, just turn it in to your local committee and I'll promise you we'll get the police department in and I'll rush them down for presuming upon the fact that they could go to the extent of putting a ticket on one of our honored guests, and chances are they couldn't get by with it anyway; you folks being attorneys they would have a hard time making it stick. And I'll also say the town is yours. If I tried to stop it from being yours, you would figure out some legal way to get it anyway, so just save your minds. You don't need to do it. It's yours anyway. Just enjoy yourselves; we turn it over to you. Thank you. We are glad to have you with us.

MR. KIDWELL: Thank you very much Mayor Gardner. We do congratulate you and Father Wanamaker for a very effective combination. We have had splendid hospitality shown to us. I was particularly impressed by the Tuesday night fireworks and we do appreciate what you are doing for us on the Fourth of July fireworks. That was wonderful. I have had one inquiry from a commissioner who does have a boat wondering if this immunity would also extend to the Coast Guard. Do you have any thoughts on that?

MAYOR GARDNER: Sometimes Uncle Sam and I aren't on very good speaking terms. I am not sure.

MR. KIDWELL: Thank you very much, Mayor and Father Wanamaker, for coming down. These gentlemen have asked to be excused. We do appreciate your attendance. Thank you very much.

It is my privilege to introduce the guests that are here. First of all, we have a new commissioner since the last annual meeting. It is my extreme pleasure to introduce to you Mr. Harold Ryan, the Commissioner from Weiser, Mr. Ryan. (Applause)

We also have a number of dignitaries to introduce. Looking over the audience I spot one ex-Bar President and he is here because he is on the program. Mr. Ed Benoit. (Applause)

MR. KIDWELL: With the permission of our distinguished speakers, they will be introduced properly later on, so if we may have your consent on that, Bert and Rufus. Are there any other neighboring State Bar Presidents here? These will be introduced later on tonight and at the banquet Friday.

We are honored to have with us George Guy from Wyoming and Mr. Harold Taber from Nevada and Mr. Scott Matheson, President-Elect from

the Utah Bar and Raymond Fox, the President of the Montana Bar. We do appreciate these visiting Bar Presidents attending and we will introduce them as the golf courses clear. I noticed earlier Justice E. B. Smith. Is Justice E. B. Smith present? (No response). And Justice Spear also. And both of these are members of the Idaho Supreme Court and are ex-Presidents of the Idaho State Bar. I would also like to appoint at this time a canvassing committee to review the votes on a blistering race that developed over the Eastern Division. The canvassing committee will be chaired by Robert Huntley from Pocatello from the Eastern Division and by Bob Alexander from Twin Falls, the Western Division, and by Alden Hull from Wallace on the Northern Division. Will this committee meet and pick up the ballots from Frank and after they have made the canvass if they would then report back. We will now return to the scheduled portion of the program. We have a report of the delegates to the American Bar. We have one State Bar Delegate and one State Delegate. The delegate is Blaine Anderson and the State Delegate is Ed Benoit from Twin Falls. We are happy to present to you my predecessor in this exalted position, Mr. Ed Benoit who will bring you up to date on the American Bar activities. Ed Benoit. (Applause)

MR. EDWARD BENOIT: Thank you Vern.

In case anyone is wondering about these glasses that I am wearing; away down in Twin Falls we are rather frugal and we have a very convivial association and a spirit of friendship and economy. John Daly and I have split a pair of glasses. Now, I heard the report of the House of Delegates of the American Bar Association about the activities before and until I was appointed State Bar Delegate I didn't quite realize how these delegates were selected and what their positions were. Blaine Anderson, of course, is our State Delegate and he is elected and he was just re-elected for a three year term by the members of the American Bar Association, who reside in the State of Idaho, and Blaine, as the State Delegate representing the members of the American Bar Association, is the Delegate from Idaho who has the important votes and helps determine who is the President-Elect of the American Bar Association and all the other members of the House have no vote as far as this is concerned. It is quite interesting to see how courted and appraised and enjoyable a time that Blaine has while these people are seeking votes when they want to be President of the American Bar Association. And I want to report to you that I am sorry Blaine isn't here. He has done an outstanding job and he is well respected and has brought a lot of credit to the State of Idaho as has his predecessor, Justice E. B. Smith. As State Bar Delegate, I represent the Idaho State Bar, the House of Delegates, and the only reason that I am presently in that position is that Sherm Bellwood resigned when he went back on the bench. I found that Sherm had made a lot of friends back there and had done an excellent job for the State of Idaho and when he resigned, the Commissioners appointed me to fill his term. I have been to several meetings, but unfortunately I can't go to Hawaii. My wife saw fit to have a wedding for my daughter and that trip disappeared in the wedding, so I have been temporarily replaced for the meeting in Hawaii by a man who will then be your President, Jerry Smith, who will represent the Idaho State Bar at that meeting at the House of Delegates. The meeting normally

takes two days in which there are reports from the various standing committees and the various special committees of the American Bar Association and some of them are very specialized, as in the field of taxation and all of that. And then you do have the special committees—of course, a few years ago, a special committee of the Bar Association reported to the House of Delegates about the proposed amendment to the constitution regarding the succession to the presidency in case of death and disability and I think that we all ought to be proud to know that really through the efforts of the American Bar Association, the constitution was so amended. In Houston in February the report of the special committee concerning the changing of the electoral college system which was presented to the House of Delegates. This was a very impressive committee that recommended the electoral college reform on the basis of one vote per person as you know the Supreme Court has held in recent decisions. It was quite an interesting debate. Numerous former Presidents of the Bar Association were opposed and numerous were in favor and it was new to me to find out that the proposal was coming before the American Bar Association and I supported the group that wished to defer action on the position of the American Bar Association until the meeting in Hawaii. However, they were quite insistent that it be voted upon in Houston, and being from a small state and not knowing what the Idaho State Bar wanted, I felt that after several hundred years that it wasn't necessary to act at one time and regardless of what you thought, I voted against the proposal but it was overwhelmingly adopted and Blaine Anderson told me that that was the first time in history that the Idaho Delegation had split. I think one of the very important actions taken by the ABA and which will be presented, as I understand, in Hawaii is a proposal whereby the American Bar Association will handle some kind of a fund so as we get into this self-employment retirement program, a small Bar like the State of Idaho can join in a central place where our money as we put it aside can be invested and I hope that Bert Early, who is representing the American Bar Association, will touch upon that briefly in his remarks. I think it is quite important to us in a small Bar. And I will say that as you get your Bar Association ABA Journals from time to time that if you happen to see some position or some proposal that is to be brought before the House of Delegates either at the mid-winter or the annual meeting and you have any viewpoint concerning such proposals if you would drop me a line, that would be appreciated because I would like to, at the times when these things are to be voted upon, I would like to express the will of the Bar Association rather than an individual viewpoint. And I would say to you who are not members of the American Bar Association that I think you are making a great mistake. I think that the image of the legal profession has improved so immensely in the past few years and I think that it is entirely due to the activities of the American Bar Association and even for that reason alone you ought to join. It is not too expensive and in addition there are various sections, and for a small amount of money a year any particular field which you are interested in you will receive a tremendous amount of written material which can aid you greatly in the practice of your law. And I would urge those of you who are not members of the ABA to seriously consider joining.

Now, we are very honored this afternoon to have in the American Bar Association the Executive Director from Chicago. I think that Bert Early is Mr. Bar Activity. He is a graduate of Duke University Undergraduate School and received his degree from Harvard. He was admitted to the West Virginia Bar. He has been in private practice and he has been a House Council and a member of the ABA, Illinois and West Virginia Bar, American Law Institute, and a Fellow of the American Bar Foundation and numerous other activities. He has served as Chairman of the West Virginia State Bar Committee on continuing Legal Education and the West Virginia Judicial Council and West Virginia Tax Institute Board of Directors and at one time he was Chairman of the American Bar Association Junior Bar Conference. In addition, he is the father of five boys, but I think his most outstanding accomplishment is that he is the husband of Betsy Early. Bert would you—

(Applause)

Mr. Early's address has been deleted but copies are available in the office of the Secretary upon request.

MR. KIDWELL: Thank you very much Bert Early, for a thought-provoking address. I inadvertently omitted to introduce some of the former Presidents of the Idaho State Bar. It is my pleasure to introduce at this time Mr. R. D. Merrill, of Pocatello, former President of the Idaho Bar; Mr. Merrill;

(Applause)

MR. KIDWELL: During the program, I saw another President of the Idaho State Bar enter the convention, Mr. Gilbert St. Clair.

(Applause)

MR. KIDWELL: And did I catch Mr. Scott Matheson, President Elect of the Utah Bar entering the convention; Mr. Scott Matheson.

(Applause)

MR. KIDWELL: May we have a report of the canvassing committee please, Bob.

CANVASSING COMMITTEE DIRECTOR; The committee has not prepared the report yet.

MR. KIDWELL: At this time it is my pleasure to have a drawing after which we will have a coffee break. The coffee break is hosted by the Idaho First National Bank.

(COFFEE BREAK)

July 6th, 1967 at 3:15 P.M. after coffee break

MR. KIDWELL: Could we have the report of the canvassing committee please.

CANVASSING COMMITTEE CHAIRMAN: Mr. Chairman, there was a

close race between two members and I am happy to announce that Mr. Lamont Jones was elected.

MR. KIDWELL: Thank you. Would Mr. Lamont Jones like to say a few words, the new Commissioner from the Eastern Division.

(Applause)

MR. JONES: I am very happy to be standing before you. When I found out that a very good friend of mine, Bob Huntley, was in charge of the committee, I was a little worried. He had indicated that he wasn't going to run, but I thought probably he didn't have to once he was on the committee. I was a little awed at first when I found out that I was the only candidate and I had a lot of friends who encouraged me to run. At least at that time I thought they were my friends. We'll find out later what the real result is, I guess. I'll try my best to follow in the foot steps of Mr. Kidwell. I know it is a tough job and I know he has done a tremendous job because he has told me so. (Laughter)

At this time, I would like to thank all of the gentlemen who did cast their ballots for me and I will try to do the job to the very best of my ability. Thank you.

(Applause)

MR. Kidwell: Thank you Lamont. Welcome aboard and follow in the foot steps. We have the unique distinction of being the only Bar Commission in history that has been sued twice in a period of three weeks. (Laughter) I have some more distinguished guests I would like to introduce. It is my extreme pleasure that I introduce to you Chief Justice C. J. Taylor, of our Supreme Court; Justice Taylor. (Applause). And I am also pleased to introduce to you a Justice of the Supreme Court and a former President of the Idaho State Bar, Justice E. B. Smith. (Applause). And seemingly we are packing the court; we have saved the next Justice and former member of the Idaho State Bar and former President of the Idaho State Bar, as one of our speakers. We'll introduce him at this time, the Honorable Clay Spear, Justice of the Idaho Supreme Court, who will speak on the Supreme Court building; Justice Spear. (Applause)

JUSTICE SPEAR: Thank you Mr. President, distinguished guests and fellow members of the Bar. About a year and a half ago, shortly after I was sworn in on the court, it was called to our attention that very likely if things were handled properly we might get a separate Supreme Court building that is now separate and apart from the capitol building. Many of the members of the Bar for years have felt that being there with the executive branch as we were, we were considered almost a stepping stone or something of the executive, and even more so, of the legislative when they were in session. And someone stumbled on to the information that the legislative branch had plans for taking over our quarters anyhow, so we thought this was a pretty good time to organize. And I am giving this report only because I am the low man on the totem pole. You understand that I had nothing to do with this organization. It was all handled before I got there. But the other members of the court and I decided that we would have an advisory committee if we could; have some

lawyers distributed throughout the state and also some, what we felt were influential laymen there in Boise itself to help us plan this as best we could and see what we could get done towards accomplishing this result. The members of that first committee were Carl Burke, T. H. Eberle, Robert W. Green, who incidentally later was the majority leader in the House, Z. Reed Millar, John M. Dahl—now John was one of our laymen—Donald M. Day, who was the other layman, and they incidentally were the co-chairmen of this committee. And then John Daly from Twin Falls and Alden Hull of Wallace. The State Law Librarian, Laura M. Pershing, acted as our secretary and ex-officio member of this committee. We had several meetings off and on and we didn't publicize it at all for various reasons for which those of you who have served in the legislature know better than some of the rest of us. Eventually, we took the matter up with the Governor Elect, Governor Samuelson, and placed this before him for his attention, along with some other portions of our program that we had in mind. And actually I think the other members of the committee will agree with me, that from then on the Governor took over the ball and as an end result, there was one million eight hundred thousand dollars appropriated for the Supreme Court Building out of these so called surplus funds. So then, of course, we needed to get down to some of the specifics and this same group of men consented again to act as an advisory committee. And we added to that Senator Sam Kaufman of Boise. Now this committee and some sub-committee met with Colonel DeShazo, who is the Commissioner of the Department of Public Works, and James D. McClary, who is Chairman of the Permanent Building Fund Advisory Council. And as a result of some of those meetings and meetings by the court members and committee members with various architects, it was finally decided that Dropping & Kelley of Boise would be awarded the architectural aspect of this case. And just recently, Justice McFadden and Mr. Dropping, senior member of that firm, took an extensive trip throughout the United States and also Toronto, Canada to personally view some of the late Supreme Court Buildings. You would be surprised how few there are. There are only about five or six. Now we are talking about a complete and separate unit; Supreme Court and nothing else. No Attorney General's offices or nothing of that type. Like in Texas they have a hundred assistant Attorney Generals, along with the building of the court; and they have just returned from that trip having viewed the buildings in Denver, Colorado and Austin, Texas and one in Mississippi and Little Rock, Arkansas and Toronto, Canada, and Justice McFadden was unable to send me a report in time to pass it on to you at this time. However, another item of importance, of course, is where this was to be constructed, the site of it. Those of us who have been in Boise the last year or so perhaps have seen this mock-up of what is going to be the Capitol Mall. It is an eight block area in the vicinity of the Capitol and there will be nothing but these state buildings and gardens and fountains and the like, to have a real attractive Capitol Mall. Our site already has been chosen and it is, incidentally, a full block and it is the block just east of the block where the Ada County Court House is now located. Now you may think that is peculiar, but the people who have made these plans for this Mall assured us that that building is not going to be there too much longer

and with that removed, then we will have gardens and so forth in between us and the Capitol Building itself and we will be separate and apart from the legislative offices that are going to be built just north of the Capitol Building, and the Capitol itself, of course. We feel that that is going to be a long ways towards pointing out to everyone that we are a separate and distinct entity of this government. Now then, one of the main purposes of getting this report and giving this report is to pass this information on to you and then in turn ask you if you wouldn't send in any ideas that you may have as to how this building can be made more functional. The architect has told us that he is going to take from three to six months just merely drawing up the plans and specifications. It is the contention that the more time we spend on that part of the project, the less mistakes we're going to have and the less real delay we may have after that. So, if any of you have any ideas, pass them on and we would appreciate it very much, and thank you for your very kind attention.

(Applause).

MR. KIDWELL: Thank you Justice Spear. During the intermission, I saw Raymond Fox, President of the Montana Bar. Did he get loose again? See here, we'll catch him later on. Part of the pleasure of being on the commission has been the close liaison of the University of Idaho College of Law. The next scheduled speaker is from the College of Law, and he found out during the intermission that his partner with whom he had brigaded himself in order to prepare and deliver this speech was unable to be here. This is somewhat of a short term notice, but we are not at all concerned about the ability of Professor Bell, of the College of Law, because he has been a long time friend of the commission and of the Idaho State Bar. Speaking on the progress of court reform, Professor George Bell. (Applause).

PROFESSOR BELL: I guess this speech could be entitled, "In Memoriam." We came close; one signature, we needed one more signature than we had. I have been in court reform for I guess six or eight years, I don't know just how long. I haven't tried to count the exact number of years. We have come close before, but we never came this close. We had everything working for us. We had the legislators working for us and we had the people working for us and we had the Bar working for us, and we had most of the judges working for us, and we had the full support of the Idaho Supreme Court. And so, we were not surprised when we had a high percentage of the legislators vote in favor for the court reform bill.

We did go through in nice style as far as the legislative vote was concerned, and it looked like that we were going to override the veto when the time came. We came within a few votes of overriding the veto. So, I guess I am supposed to sit up here and stand up here and lick my wounds, but actually we gained so many things out of this last legislature for this movement for court reform, that I am not going to stand up here and shed very many tears.

The one thing that I am sure of is that as a result of the various council group meetings that we held throughout the state that the people

do want court reform. Now, there obviously are going to be those who are opposed to it, but they use various cliches that have a nice ring, keep the courts down to the people, but the people want a little better class of courts than they are getting now and they want the change. We had a tremendous support from the people. So the other thing I noticed was how much power the Bar has when the chips are down. The Bar was right there and they did everything possible to get the bill all the way through, including the last signature. I don't know anything that could have been done that wasn't done.

It is a little amazing to see the high percentage of the Bar that is in favor of court reform when you realize that we did put in court reform the change of the rules and we changed the scheme. The whole practice of law changes in Idaho and that is not pleasant because we are all used to the old system and we can make it work, so when a lawyer makes a sacrifice and when he is willing to put his name on the line and his support behind the court reform bill because he knows very well that he is going to have to face a new system, and that isn't easy. By and large we had tremendous support from the Bar, but a few, and I would be surprised if we didn't have a few, were opposed to it. I am surprised that we didn't have a few judges opposed to it, and we did, but it didn't amaze us and make us feel that we should quit and go on home. What are some of the gains that we got out of court reform?

Well, in the first place, we reorganized the judicial districts, and you have noticed that I am sure by now and I don't need to go through that in detail, but they are now more functional and the number of people served by the courts are more evenly balanced among the judicial districts so that the actual load for the judges is going to be more even. We are not going to have judges that have free time and that are shipped off into other judicial districts to utilize their time in judicial districts that are overloaded. That will be minimized as a result of the reorganization of the judicial districts. This to me is a tremendous gain.

Number two, we gained the Missouri Plan, which will be submitted to voters in 1968 and I am sure you know what I mean when I say the Missouri Plan for the selection of judges. Most of us who have been pounding around the state, the Bar Commissioners, I think might back me up on this, believe that the people will support that bill and support that vote and come through for the Missouri Plan. I really believe that it will indicate to the legislature the votes that we will get out of the people that they do want the selection of judges and not the election. So, that will be up on the ballot in 1968 as a result of the last legislative session. We have a judicial council now and I understand that Bob Huntley has been nominated to it. We now have a court administrator. We have been fighting for that for years. Finally, we have a complete set of bills for court reform all printed and set aside and ready to go for the next legislature. (Laughter). Now you laugh and you think that isn't anything. Well, that is a lot of work. And we don't have to make very many changes to get it all set up and try to run it through the second time. Where do we go from here? Well, frankly, I don't know. Do we try the next legislature or do we wait four years? I really don't know the answer to that. It will take

a better politician than I to answer those questions. The only thing I am sure of is that we are not going to drop the ball at this point when we get this close to bringing our court organization and our lower court organizations up to the present time and get them out of the horse and buggy days. We are not going to drop it at this point, but exactly what is the best thing to do at this time and for the next legislature, I think your next Bar Commissioners will have to get down and do some hard thinking and try to make that decision. Thank you.

(Applause).

MR. KIDWELL: Thank you very much Professor Bell, and this will be on the agenda for consideration at the 1968 convention. The Bar Commissioners do not plan the direction, we merely attempt to implement the instructions that are turned over to us by the lawyers at the annual convention and I feel that there is in all likelihood a probability that this will be discussed at the 1968 convention. We would like to request Mr. Gilbert St. Clair to introduce our next speaker.

Mr. St. Clair's introduction and Dr. Evans' address have been deleted but copies are available in the office of the secretary upon request.

MR. KIDWELL: Thank you very much Dean Evans. That paints a somewhat forbidding future. We do appreciate your return and welcome you back to Idaho. I notice we have some more people I would like to present to the convention. It is again with a great personal pleasure that I introduce to you the former President of the Idaho State Bar and former Chief Justice of the Idaho Supreme Court, the Honorable Emery Knudsen. (Applause)

And we are delighted to have with us Mr. Raymond Fox, President of the Montana Bar; Ray. (Applause)

We notice we have some of tomorrow's speakers with us here now and we're not slighting them, but we would prefer, if you don't mind Mr. Getty, to introduce him tomorrow. He has had a rough afternoon with press conferences and so forth and I would request that Jerry Smith will introduce our next speaker.

Mr. Smith's introduction and Mr. King's address have been deleted but copies are available in the office of the Secretary upon request.

MR. KIDWELL: Thank you very much, Mr. King, for a very frank discussion of a national problem. We have a few announcements to make. (Announcements and drawing omitted)

July 7th, 1967 — 9:30 A.M.

MR. KIDWELL: We have a few introductions to make this morning. It is my pleasure to introduce to you Judge Ray McNichols of the Federal Court; Judge McNichols. (Applause). And also, I would like to introduce to you a Past President of the Idaho State Bar, Mr. Alden Hull. (Applause). We have an additional Past President of the Idaho State Bar,

Mr. Bob Brown. (Applause). We are also happy to welcome this morning the new Dean of our College of Law, Dean Menard. (Applause). And as a part of the hands across the board policy, we are pleased to have as our guest today the President of the Nevada State Bar, Mr. Harold Taber. (Applause). I would like to remind you that the registration desk remains operative. I have been requested to announce that the Prosecuting Attorneys Luncheon will be held in Cabins 2 & 3. Now those are directly opposite the cashier's desk in the coffee shop of the North Shore; at noon today. We have an item of special notice that was brought to our attention last night that one of the persons in attendance is attending his forty-fourth consecutive State Bar Convention and we think this is a remarkable record and we would like to re-introduce to you the holder of that record, Justice E. B. Smith. (Applause). We have requested Carl Burke to introduce our next speaker; Mr. Burke. (Applause).

Mr. Burke's introduction and Mr. Jones' address have been deleted but copies are available in the office of the Secretary upon request.

MR. KIDWELL: Thank you very much, Bob, for doing an admirable job on short notice. We do appreciate your filling in. Earlier I omitted, and entirely unintentionally, to introduce to you an additional Bar President of a neighboring state, Mr. George Guy, from Wyoming; George. (Applause). And possibly giving a little too much lead to an introduction, I introduced Bob Brown before he got in here; and he has now arrived. May I introduce or re-introduce to you as a Past President, Mr. Bob Brown. (Applause) We will dispense with the drawing at this time because we're running a little bit behind schedule. We will have a coffee break there at the pool side hosted by Xerox. May I ask you to return to your seats promptly in ten minutes. We'll adjourn for the coffee break.

(Fifteen Minute Recess)

MR. KIDWELL: May I have your attention please. We are running a little bit behind schedule. Will you please take your seats. For those who are not wearing badges, the registration desk will be open immediately after the conclusion and adjournment of today's meeting. It is a pleasure today to have a distinguished speaker. I would like to have Mr. Tom Mitchell introduce our next speaker; Tom. (Applause)

Mr. Mitchell's introduction and Mr. Getty's address have been deleted but copies are available in the office of the Secretary upon request.

MR. KIDWELL: Thank you very much, Mr. Getty, for sharing with us your interesting experiences and the procedures that you have adopted. We do appreciate your courtesy in inviting us to Chicago. Because of the time element, I have only a few new announcements. The C.L.E. committee will meet this noon at one o'clock at Cabin 1. At one o'clock the ladies luncheon and style show will be here in the convention center. At 6:30 tonight the banquet and social hour. The George Washington Alumni Breakfast tomorrow morning at 8:00 AM in the North Shore. At nine o'clock tomorrow we will reconvene for the business session. We will now be in recess until this evening.

Saturday Morning, July 8, 1967 9:30 a.m.

MR. KIDWELL: Will you please take your seats. We will convene the business session of the Idaho State Bar and we appreciate the characters that did show up this morning. We have a special award. We have a number of drawings that were not completed yesterday because of the press of time in order to have the full allotted period for Mr. Getty, so rather than give away the books we enjoyed the discussion by Mr. Getty and as a result we have all kinds of goodies to give away this morning.

(Drawings omitted from the record).

I would first of all like to read a wire addressed to the Idaho State Bar Convention. "We wish to convey to you and your association the very best for a successful and productive convention. We are looking forward to the same fine relationship we have enjoyed the past few years. Our best wishes again for a most enjoyable convention. Signed, Glenn A. Phillips, President of the Idaho Magistrates Association." Do we have a report from the Prosecuting Attorneys' section? We will have a report on the Committee on Communists' Tactics, by Z. Reed Millar. The report is in letter form so we can have it read.

May 23, 1967

Mr. Frank T. Elam
Secretary, Idaho State Bar
P. O. Box 835
Boise, Idaho 83701
Re: Committee on Communist Tactics and Strategy

Dear Frank:

Please be advised that the American Bar Association, through its continued intensive study of the above subject through its committee, chaired by Honorable Morris I. Leibman of Chicago, Illinois, has produced and distributed to the Bars of the nation three new texts. The first one, "THE CHINA DANGER," by Richard L. Walker, the second entitled "PEACE OR PEACEFUL COEXISTENCE" by Richard B. Allen, and the third, a syllabus and bibliography prepared by the Institute of International Studies, University of South Carolina, copies of all three texts I have in my possession.

The first text, "THE CHINA DANGER" was written prior to the news of the revolution against the revolution in China, but the text quite carefully analyzes the danger involved in the complex China situation and the danger of our misunderstanding the situation and the necessity for constant study and vigilance involved in the China problem, not only as it affects our relationship with the Soviet Union and the Communist situation there, but as it affects all Southeast Asia.

The text "PEACE OR PEACEFUL COEXISTENCE" is a continued study of the program started in 1963 which resulted in the production in 1964 of the book "PEACEFUL COEXISTENCE: A COMMUNIST BLUEPRINT FOR VICTORY." Some 40,000 copies of the text were produced. The present text is in the nature of an updating of this study.

This text contains a careful analysis of the updating of the Communist view of the West and a further survey of Religion and Atheism under that system. The text is full of worthwhile information and its content may be summed up in the concluding words of the preface:

"This study is not a policy statement of the American Bar Association but is intended as a contribution toward better understanding of the real dimensions of Communist objectives which are too often obscured by Communist semantics."

Both of these books are worth very careful study.

The other text above referred to was apparently compiled pursuant to the Bar Association's House of Delegates' resolution in August, 1962, encouraging the research and assembly of material for a teacher training institute and continuing research on Communist strategy and tactics for use in universities, to unite two great professions—education and the law—in working together on the admittedly controversial and complex project without impairing the academic freedom of the one, or the professional responsibility of the other and permitting debate on issues in controversy but designed "to uphold and defend the Constitution of the United States and maintain representative government." This is a monumental work, and though this is the initial accomplishment for this specific purpose, it is hoped that its use and effectiveness can be expanded into all of our great universities.

I have not been advised and did not read in the press of very much emphasis being made by the Bar Association for emphasizing "Liberty under Law" in May Day events throughout our schools and communities. Has this been discontinued? Since both the committee of which I am chairman and the committee on Law Day basically are concerned with the same principles and ideals, it is my thought that they might be merged so that the committees may work together. Information and efforts and plans in both areas could then be correlated.

Respectfully submitted,
Z. REED MILLAR, Chairman
Committee on Communist Strategy
and Tactics

MR. KIDWELL: The next committee report will be a report of the C.L.E. Committee, Bob Huntley, Chairman. That committee has been very active. They were meeting this morning at a breakfast meeting and they met yesterday afternoon. I don't see Bob here but we do have the C.L.E. Director, Bob Bakes. Bob, would you like to make the committee report.

MR. ROBERT BAKES: I will read Bob Huntley's committee report --

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

The Continuing Legal Education program featured two very worthwhile institutes as well as assorted other activities of service to the Idaho State Bar.

An institute entitled, "Idaho Farm and Ranch Law and Rural Land Transactions" was conducted in Pocatello on October 7-8, in Moscow on October 21-22, and in Boise on October 28-29. Attendance at the three sessions totalled 225.

A Criminal Law Institute was conducted in Boise in January, 1967. The attendance totalled approximately 250. The Continuing Legal Education program also sponsored the publicity and distribution of the Idaho State Bar Desk Book.

At the present time, plans are under way for conducting a seminar on the Uniform Commercial Code to be held September 28-29 and 30th in Boise. The U.C.C. Institute will be a single presentation in view of the expense of bringing in qualified speakers from around the country. An invitation is being extended to the Banking fraternity and to other interested parties and it is anticipated that the attendance will exceed 500.

The Committee is also finalizing plans for an Institute on medical-legal testimony for the spring of 1968. That Institute will place emphasis on the doctor's viewpoint as to what items are significant in the presentation of proof and analysis of personal injuries.

The Committee wishes to express its appreciation for the support it has received in the last year from the Bar Commissioners and from the Bar at large. We look forward to a most successful C.L.E. program in the coming year.

ROBERT C. HUNTLEY, Chairman
Committee on Continuing Legal Education

I would like to expand a little bit on the U.C.C. programs which we are holding this fall. There will be a Thursday, Friday and Saturday morning program which will be conducted in the Pinney Theatre in Boise which was about the only place large enough to hold the group which we anticipate. We have arranged for the best talent in the country for this program. Mr. Robert Broucher from Harvard University who has conducted these programs for the last ten years for some twenty to thirty state Bar Associations and for the A.B.A. and the Practising Law Institute will be one of the main speakers. To handle the area of sales and the general introduction to the Uniform Commercial Code, Professor Braucher was in Hawaii this summer conducting a seven day session on the Uniform Code and conducting an A.B.A. meeting this month. We have also arranged for Professor Maurice Shanker from Cleveland to appear and handle the area of secured transactions under the Uniform Commercial Code. Professor Shanker has also participated extensively throughout the United States in these programs and he will be coming to Idaho directly from Michigan where he will be conducting a similar program. Last year he handled that subject with the California State Bar with their several programs and was referred by them to us as the best speaker they ever had in one of their Uniform Commercial programs. We feel that with these two mainstays to handle the basic parts together with the two practitioners who we are in the process of obtaining from other states who have actually worked with the code together with several local lawyers who are more or less con-

versant with the code that we will have a nucleus of about seven competent practitioners to present what we feel will be the best Uniform Commercial and best C.L.E. program we have ever had the opportunity to present in Idaho. A brochure will be mailed at approximately the end of this month that will list the various places that you can obtain housing. We have approximately two hundred and fifty committed at this point, so you can write there and unless their attendance runs much in excess of that you will be assured of rooms. Most of them are out in the area of Boise College where we initially thought we would hold the meetings. However, the size of the institute now exceeds what Boise College had available in facilities and plus the increased enrollment having taken over their auditorium, so we had to move it to the Pinney Theatre downtown. This is the weekend of the Idaho State—Idaho football game and we put in the brochure where you can write for tickets. After our fiasco in Pocatello we are out of the ticket business and you will have to write directly to the two schools depending on where your loyalty lies for your football tickets. By way of explanation of the spring program in March of next year, we are bringing that team from California to present a program which was developed there on how to prepare and improve medical testimony. We had hoped to have it in June of this year but between the Bar session and this annual meeting it was just more than we could put together, so we are now planning it for March of next year. It is a team of three doctors and three lawyers that is built around a personal injury to the back. And one of the doctors is the victim and the doctors conduct an orthopedic examination right there explaining the symptoms and the various things. And the program proceeds to an interview of the lawyers with the plaintiff's doctor and the defense doctor and how to prepare them and the proof of the medical testimony which they have of course is one of these nip and tuck cases of prior personal injury, of a back injury, and the various things and how you prepare your demonstrative proof. Then the program proceeds to an examination, direct and cross examination of both of the plaintiffs and the defense doctor. I attended this program in Los Angeles earlier this year and it's an excellent program and would help tremendously in your personal injury work. There also was indicated a great amount of interest from the Idaho Medical Society to invite doctors to attend this program and we feel that this will help us in our relationship with the doctors on preparing them for trial. Many of them don't want to go to trial and we think if they understand the problem a little better there won't be as much reluctance on the part of doctors to appear and testify. We feel that we are going to accomplish two things; one, the educational function and also public relations from the doctors on the program. So, we feel that this will be an excellent program and in conjunction with it we will also have a substantial work which will be distributed as part of the registration for use in your law practice. The balance of the planning is still tentative for beyond the spring of next year and will be reported, Mr. Chairman, at the next annual meeting.

MR. KIDWELL: Thank you Bob and our appreciation to the committee for a splendid job well done. Do we have a report on the committee on courts; Tom Miller, Chairman. Tom Miller is unable to be here today and he has forwarded a written report and we will ask the Secretary to read it.

MR. ELAM: This is addressed to the officers and members of the Idaho State Bar.

**REPORT OF THE IDAHO STATE BAR COMMITTEE ON COURTS
To The Officers and Members of the Idaho State Bar:**

Gentlemen:

Much water has passed under the proverbial bridge since the last meeting in July 1966 at Boise. You will recall that the Bar at that time endorsed in principle the Preliminary Report on the Legislative Council's Committee on Courts which proposed (tentatively):

1. Consolidation of judicial districts from 13 to 7 districts;
2. Missouri Plan for selection (rather than election) of judges;
3. Judicial Administrator;
4. Judicial Council; and
5. Modified two-level systems of courts.

Numerous public hearings and private citizens' conferences were held throughout the state during the fall of 1966, after which the Committee (of the Legislative Council) met to finalize its proposals. Minor changes were made in the 5th proposal and the Missouri Plan was dropped as being somewhat controversial and tending to jeopardize the balance of the proposals, which were considered of more immediate importance. Otherwise, the plan remained intact.

The entire package was passed by both houses of the Legislature by substantial margins. The Governor signed into law the 1st, 3rd and 4th items, and vetoed the 5th—modified two-level court system bills. The senate overrode his veto by a vote of 24 to 11, and the House vote was just five votes shy of the necessary two-thirds.

The judicial redistricting became effective today—combining the 1st and 8th, the 2nd and 10th, the 4th and 11th, the 5th and 13th, and the 6th, 9th and 12th judicial districts. The 7th and 3rd districts remain the same except for renumbering.

The Judicial Council has been appointed and confirmed by the senate. It consists of the following non-lawyers appointed by the Governor: Charles D. Lunte, Buhl, businessman (6 years); Ray Burge, American Falls, rancher (2 years); and Richard H. Winder, Caldwell, College of Idaho staff (4 years); and the following appointed by the Bar Commissioners: Hon. James G. Towles, Wallace (4 years); Robert C. Huntley, Esq., Pocatello (2 years); and Thomas A. Miller, Esq., Boise (6 years). The Chief Justice by statute is the seventh member and chairman.

The first meeting of the Judicial council will be held in Boise on July 14th, at which time the Council is expected to organize and consider its first duties: that of recommending candidates to the Governor for appointment of two additional district judges to be chambered at Boise and Twin Falls, respectively. The Council must submit from two to four names for each position, from which the Governor will make his appointment.

The statute also requires, among other things, that the Judicial Council:

“(1) Conduct studies for the improvement of the administration of justice;

“(2) Make report to the supreme court and legislature at intervals of not more than two years; * * *”

This might include an evaluation and recommendations with respect to the proposals of the Legislative Council committee that were vetoed by the Governor.

As you may have heard, following his veto of those bills the Governor announced that he would have his staff make an independent study of the matter of court organization (and presumably come up with alternative proposals).

The Citizens' Committee on Courts, Inc., a non-profit corporation organized by some of those attending the first Citizens' Conference on Idaho Courts at Boise, June 2-4, 1966, intends to continue its studies and may come up with some suggested changes, although it generally and quite enthusiastically endorsed the Legislative Council proposals.

Likewise, members of the bench and bar may be expected to come up with concrete suggestions for the improvement of our court system. The members of the Idaho State Bar, although in no way unanimously endorsing each and every detail of the vetoed proposals, have shown by the resolution adopted at the last annual meeting and by their considerable support since then that they see great merit in those proposals. In fact, the strength of that support and the relative lack of opposition from lawyers and judges—in my opinion—is a tribute to the basic merit of the proposals.

As has been said many times, the courts belong to all of the people—not just to lawyers and judges. The people are awakening to the fact that all is not right with our court system and that they have a vital stake in the improvement of the system. Their voice can not and should not be ignored. Most of us realize that it is only a matter of time until court reorganization is accomplished in Idaho. In many states it has been accomplished in spite of rather than because of the organized bar. This is unfortunate in that efforts are dissipated in cross-purposes and the best-reasoned conclusions can not be reached in the partisan arena.

The Idaho State Bar may be proud of its generally excellent record in working affirmatively and constructively toward improvement of our court system. The vast majority of criticisms from lawyers has been constructive. There are very few who are perfectly content with the status quo, who see no room for improvement and who therefore oppose any change.

It appears that, with the advent of the Judicial Council and the post-veto announcement by the Governor, we are in for some more “study.” No one can oppose study of any important problem, unless “study” is merely a smokescreen for doing nothing about the problem.

It is my feeling that, although the Legislative Council committee's

proposals undoubtedly can be improved in certain details, any objective, in-depth study of the problem will result in the same general conclusions. At least no one to my knowledge has come up with a better basic plan.

Let him that has a better plan come forward before the next regular legislative session.

In conclusion, we would like to say that we have enjoyed our work on this committee. It has been time-consuming and at times disappointing, but the rewards have far outweighed the disappointments and set-backs.

Respectfully,

THOMAS A. MILLER, Chairman

MR. KIDWELL: Thank you Frank. This has been an extremely hard working committee. We have the next report from Myron Anderson, Idaho State Bar Representative to the Western Region Liaison Internal Revenue Service. We note that Myron does not have the report available at this time and that it will be submitted when the minutes of the last meeting will be submitted, and with your permission would you mind submitting it in time so it can be printed with the record of the proceedings. With the permission of Myron, who has done a splendid job, we would like to have our secretary summarize the report and suggest that it be printed in full in the Advocate and in the record of the proceedings with the addendum and with the meeting which was concluded in June in Montana.

MR. ELAM: Mr. Anderson's report, Mr. Kidwell, is very lengthy and concerns two meetings, the thirteenth meeting of the Western Regional Bar Association Internal Revenue Service Liaison Committee which was held January 13, 1967 at the Safari Hotel in Scottsdale, Arizona and also refers to the Fourteenth meeting which was held at the Florence Hotel, Montana. Of course the minutes of the June meeting have not been received and are not included within the report. I do have an extra copy of this very comprehensive report and to summarize it would be extremely difficult in that the various parts have been set forth and underlined and if anyone would like a copy to read at this time it is available.

R. Verne Kidwell, Esq., Commissioner,
Jerry V. Smith, Esq., Commissioner,
Harold L. Ryan, Esq., Commissioner,
Frank T. Elam, Esq., Secretary,
Idaho State Bar,
Boise, Idaho.

Gentlemen:

As Idaho State Bar representative to the WESTERN REGIONAL BAR ASSOCIATION - INTERNAL REVENUE SERVICE LIAISON COMMITTEE, I now report to you on the thirteenth meeting of this Committee.

The thirteenth meeting was held January 13, 1967, at the Safari Hotel, Scottsdale, Arizona; and the fourteenth meeting was held at the Florence Hotel, Missoula, Montana, on the 16th day of June, 1967. I have not received

the minutes of the Missoula meeting as yet, so will include that information in my next report to you.

Mr. K. J. Holdsworth of the Utah State Bar was Chairman of both meetings, and Mr. Aaron Resnik was secretary.

The Committee has been invited to have its next meeting in the Los Angeles area at a place and time not yet determined.

The usual procedure is that prior to each meeting of this Committee the Chairman requests and receives suggested subjects to be placed on the agenda for discussion at the meeting, and each representative receives a copy of the agenda several weeks before the meeting so that he can prepare to add his thoughts on the matter under consideration. Each subject discussed will be discussed briefly below.

Meeting of January 13, 1967.

1. Appeals Procedure:

(a) Written declaration by a person appearing as a representative.

The new rules governing the practice of attorneys and agents before the Internal Revenue Service do not require that attorneys and CPA's be enrolled. Attorneys and CPA's who are in good standing and not currently under disbarment or suspension to practice before the Service are authorized to practice upon filing a written declaration.

In this area at this time the Service is using locally developed Form ROWR, Form 1425. It is anticipated that a standard form will be developed later for nation-wide use. The declaration need be filed only once for each case—at the first appearance of the attorney or CPA. Powers-of-Attorney will still be required in accordance with regulations of long standing. A separate form should be submitted for each case, and once submitted it remains effective until revoked. Basically the form will find its greatest use in the District conferences and the Appellate Division pre-90-day cases. In cases docketed before the Tax Court the entry of appearance form, as required by the Court, or the signature on the petition, will be the "moving" document.

(b) By-pass to the Appellate Division:

(1) Efforts by the Service to convince the practitioner of the desirability of a hearing at the District level.

(2) Practical limitations of District office procedure viewed from the standpoint of the practitioner.

The Service is constantly searching for reasons for the by-pass of Director's conferences, and will change its procedure if necessary to overcome such by-pass. In order to improve results the Service will not require protests where the proposed tax change is under \$2,500.00 for any one year; a second conference invitation will be made before the case is

forwarded to the Appellate Division, with personal contact in the form of telephone calls preferred. The Appellate Division will be asked to secure the reasons for the by-pass from practitioners and forward the information to ARC Audit. In this way the Service hopes to eliminate the principal causes of by-pass.

It is anticipated that a paper will be prepared on the District conference function for publication in an accounting society journal. This paper will emphasize the following:

1. Bring the procedure to the attention of more practitioners.
2. Emphasize that the Appellate hearing is not waived.
3. Point out that Appellate does not take a stricter position on the issues where the taxpayer has made use of the District conference.
4. Point up the success of the conference function in reaching agreements.
5. Emphasize that the Service does not want the taxpayer to by-pass.

Mr. Harless (ARC) asked Bar members as to why the by-pass. Mr. Stoddard emphasized that the system precluded the use of litigating factors at the District conference level. Where this is an element in the case taxpayers and practitioners cannot afford the duplicitous effort, and therefore by-pass the Director's conference. Mr. Stoddard also stated that he noted that there was some reluctance on the part of conferee to overrule the agent. Mr. Harless admitted there were some cases that the District conference could not resolve, and that portion of cases would, of necessity, by-pass audit.

Mr. Thomas (Wash. Bar) stated that many times he will by-pass conferences in excise taxes, as there seems to be a lack of specialists in this area. There was also some complaint that the reports inviting conference were very incomplete.

- (c) **What is the service doing to insure that notices of deficiency adequately state the grounds for the proposed assessment?**
- (d) **What is the Service doing about problems arising from its stating inconsistent positions in notices of deficiency? Must a taxpayer pay several times over the tax asserted against related taxpayers in order to sue for a refund?**

At the American Bar meetings in Montreal in the late summer the above matters were discussed. Mr. Willis (ABA) commented that the Chief Counsel was surprised at the depth of feeling of the Bar members on these topics, and the Chief Counsel stated that the matter would be discussed and considered more fully by the Service. Legislative proposals were discussed there regarding the shifting of the burden of proof where an inadequate notice was sent by the Service, and such resolution passed 138 to 111. This affirmative vote was obtained notwithstanding that the representatives of the Government announced that the taxpayers many times have failed to cooperate, and that the shifting of the burden of proof would be a

harsh solution; and, furthermore, in a sense would serve to retard the recalcitrant.

Mr. Sears (Regional Counsel) stated that at the 90-day letter stage the Service is seeking to do something about this problem. The Internal Revenue Service is concerned about the matters the American Bar Association has identified, and the Regional office is under heavy pressure from the office of the Chief Counsel to seek to make the position of the Government clear.

One further matter is receiving high consideration, and that is that "wild" theories setting up excessive dollar amounts not be asserted. He further stated that basically the true and realistic position of the Government should be announced in the 90-day letter. Where the 90-day letter is vague or confused, Mr. Sears stated he is encouraging the attorneys in his office to be more specific in the answer that is filed. Mr. Croasman (Regional Commissioner) stated the Service will continue to stress improvement in disclosure of notices, and will strive for an adequate notice that will reflect the Government's litigating position.

(e) Raising by the Service of an affirmative issue at the Appellate level after protest is filed.

Mr. Anderson (Cal. Bar) stated that in his judgment questions of law should properly be raised at any time, but fact questions should not be raised. Mr. Sears replied that the number of affirmative issues raised is *de minimis*. Mr. Willmarth (ARC, Ap) stated that the problem in the Appellate Division in this region with respect to raising new issues is so small that the only question that really should be considered is whether there should be a complete prohibition. He further stated a new issue would not be raised unless the ground for such action is a substantial one and the potential effect upon tax liability is material.

Before an Appellate conferee may discuss or propose the raising of a new issue he must have discussed the grounds therefor with his supervisor and received the supervisor's approval of the new issue. It was generally agreed among the Bar members that there is no serious problem in this region with respect to raising the affirmative issues at the Appellate level.

(f) Possibility of requesting conference at the Appellate level with a technical advisor who is a lawyer where purely legal questions are involved.

Members of the Bar posed the question as to how cases are assigned to Appellate conferees, and more specifically whether legal cases are assigned to those conferees who are lawyers or have a legal background, and whether those cases involving difficult accounting matters are assigned to conferees who have a substantial accounting background or are CPA's.

Mr. Willmarth (ARC Ap) stated that the simpler and smaller cases are assigned to the younger conferees, and the more difficult to those who have had more experience. He further stated there are certain specialists such as in the estate and gift tax areas, to whom the significant cases in those specific areas are assigned. To the extent possible, matters

regarding legal questions would be assigned to those who have had legal training, and similarly the conferees who are CPA's would have their talents utilized where problems involving accounting arise.

Mr. Willis (ABA representative) inquired as to whether, at taxpayer's request, a particular case could be assigned to a lawyer conferee. Mr. Willmarth replied that such a request of a representative would be given consideration, and would be regarded as one of the significant factors in assignment.

(g) Accelerating the processing cycle of cases referred to the Appellate Division.

In stressing the docketed case problem, Mr. Croasman (Reg. Com.) urged the representatives to renew their interest in achieving settlements during the Trial Status Order period. He stated the position of the Service was to consider settlements up to the time of trial. However, there is little the Service can do unless it receives the cooperation of taxpayers and representatives in their desire to dispose of cases at the earliest possible time and at the lowest level.

2(d) Insistence by examining agent on meeting with taxpayer personally even though represented by counsel or agent.

Mr. Harless (ARC Audit) advised that under the audit guidelines it is suggested that there be a meeting with the taxpayer personally, and under the relatively new taxpayer's compliance measurement program it is mandatory upon the agent that there be a personal interview with the taxpayer.

(g) Referral of issue to national office during examination or conference at the District office level. See Rev. Proc. 67-2, published in IRS 1967-1, January 3, 1967.

A comprehensive statement outlining the general procedures of the Internal Revenue Service, furnishing technical advice to the District Director, and a statement of the rights of taxpayers under these procedures, has recently been announced and issue under Revenue Procedure 67-2.

Mr. Harless (ARC Audit) stated that District Directors are encouraged to request technical or procedural information on any question that develops during the examination of a return at any stage of the proceedings in the District office which cannot be resolved on the basis of law, regulations, or a clearly applicable Revenue Ruling or other precedent issued by the National office. It is up to the representative of the District office to determine whether technical advice is to be requested on any issue before that office; however, during the course of an examination or a District conference, a taxpayer or his representative may request that an issue be referred to the National office for technical advice on the ground that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National office.

In the past, if the taxpayer's request for reference to the National office was denied, there was no appeal. Under the new procedure the taxpayer may appeal the decision of the Chief, Audit Division, within ten days, in

which case all data relating to the issue will be submitted to the National office for review. After review the District office will be notified as to whether the proposed denial is approved or disapproved. The decision will be solely on the written record, and no conferences will be held in the National office.

(h) Depreciation—a study of Revenue Agents' adjustments.

From time to time at these meetings Bar representatives have questioned whether the teachings with respect to depreciation adjustments have seeped down to the revenue agent's level. There was complaint that the agent would, with very little if any justification, propose changes of useful lives and salvage adjustments in order to generate tax.

Mr. Harless stated that in an effort to assess the scope of the problem a test was made in the region, and as a result there appeared to be noticeable improvement. He further stated he felt he could properly conclude from his survey that the agents are not ignoring the basic guidelines with respect to depreciation.

3. Increase in volume of computer generated notices with full implementation of ADP in 1967—Related problems.

With the increased volume of tax returns filed, and with the increasing volume of "paper" generated, it became apparent almost a decade ago, that the Internal Revenue Service, if it were to keep pace, would have to develop an automated processing system. Commencing about eight years ago, after much study, a system was launched, and it is anticipated that by 1969 it should achieve its true potential on a nation-wide basis.

The Service Center for this area (Western region) is at Ogden, Utah, and operates as one of the most modern and efficient facilities available. The heart of the system lies in the establishment of a master file for all taxpayers . . . a business master file (BMF), for businesses—and an individual master file (IMF) for individuals. The BMF file is established on the basis of the employer's identification number. The IMF is based upon the individual's social security number. The importance of the accuracy of the number cannot be over-emphasized. It is anticipated that by January, 1969, all filings will be done directly with the Service Center.

Basically, two types of notices will be forthcoming from the Center, one relating to inquiries such as social security numbers and the like; and two, notices relating to a taxpayer's liability. It was pointed out that there is now a matching of information returns with the income tax return. The estimated tax credits are being checked, and estimated tax penalties are being determined. Practitioners were urged to communicate with the District Director at any time when they observe errors cropping out of the machine operation. Such communications will be helpful in alerting the Service to problem areas and permit of correction at an early date.

5. What should an attorney do when he discovers that a basically honest client has intentionally and wilfully failed to report a substantial amount of income in a prior year?

The Section of Taxation, American Bar Association, has for some time been trying to get the Internal Revenue Service to reestablish its old voluntary disclosure practice of not prosecuting those who voluntarily disclose their liability; however, the Service has done nothing toward reestablishing this policy.

This item was couched in terms of how can a so-called voluntary disclosure be made, and what would be the effect of such a voluntary disclosure?

The discussion was limited to a failure to file case. Mr. Willis (ABA representative) said upon inquiry that he had found it was quite customary that when an attorney is confronted with a situation of failure to file, to have returns prepared and send them in to the District Director. Mr. Sears (Regional Counsel) suggested that perhaps a more desirable method would be to telephone the District Director personally, identify yourself, state your desire to make an appointment to make a voluntary disclosure, and then at such a personal interview, which will almost always be granted, the returns can be submitted and the disclosure made.

The question was presented to Mr. Sears as to whether prosecution would not be undertaken, to which Mr. Sears replied with an emphatic "no;" that voluntary disclosures will not preclude prosecution. He further stated it was a factor in the application of the standard applied. That standard is—is there a reasonable probability of conviction?

Mr. Lohn (Mont. Bar) suggested the possibility of using the "Alvah Baird" approach of paying the tax and not disclosing the name of the taxpayer.

At what point of time should the Service advise a taxpayer under investigation by special intelligence of his Constitutional right to remain silent and to be represented by a lawyer?

Mr. Sears and Mr. Croasman stated that the question of the time and manner of warning has not yet been officially resolved by the Service, but they hope that by the June meeting National guidelines might be available.

Mr. Thomas (Wash. Bar) stated that six years ago the Commissioners Advisory Committee discussed this matter in general terms, but the Intelligence Division was not happy that it was even being discussed. He observed that we have made progress even to be able to speak as generally as we have.

Since this meeting a very good article has appeared in the American Bar Association Journal dated June, 1967, at page 517, on Constitutional Rights in Criminal Tax Investigations, by Paul P. Lipton. In that article Mr. Lipton argues that the procedural requirements laid down by the Supreme Court in *Miranda vs. Arizona*, ought to apply to taxpayers under investigation by the Internal Revenue Service.

Mr. Anderson (Cal. Bar) stated that he thought a more descriptive and meaningful title should be given the special agents. He suggested that they

be called Criminal Tax Investigators, and so identify themselves; then there might be less occasion to be concerned with when and how the advice and warning were given.

Respectfully submitted,
MYRON E. ANDERSON

Dated: June 30, 1967

MR. KIDWELL: Thank you very much Frank and thank you Myron for a very comprehensive report. Do we have a report from the legal ethics committee, John Sharp, Chairman? We are getting some consumer resistance—it is a short letter report submitted by John Sharp. There have not been questions of sufficient import presented to us in the past year to justify the submission of a written report for the consideration of the full Bar. We have received five inquiries during the past year and informational points have been rendered in each case. I do not feel that the matters which were the substance of inquiries would be of sufficient moment to require a formal opinion of the committee. This report of course will be expanded in the secretary's report that will show what complaints have been processed. We have a report from the Rocky Mountain Mineral Law Foundation, Cal Dworshak, chairman.

MR. ELAM: The thirteenth annual meeting of the trustees and law institute will be held in Denver, Colorado at the University of Denver July 12 to July 15. A most interesting and educational program has been scheduled for attorneys interested in mining law. The foundation in addition to sponsoring the complete work of the American Law of Mining is now publishing the quarterly mineral law review. The foundation continues to sponsor scholarships including one at the University of Idaho.

Respectfully submitted this
18th day of July, 1967,
CAL DWORSHAK, Trustee.

MR. KIDWELL: This might be a good time to give away some more books. (Drawing omitted from the record)

MR. KIDWELL: Is there anyone present to make the report from the Prosecuting Attorney's section. (No response). We will proceed then to the Secretary's Report.

SECRETARY'S REPORT

The following report is made to the members of the Idaho State Bar for the purpose of reporting statistics pertaining to the financial condition of the Idaho State Bar, membership, Bar examination results, disciplinary matters, and other aspects of the work of the Board of Commissioners of the Idaho State Bar and their employees and committees. This report covers the period from June 1st, 1966, to June 1st, 1967.

FINANCIAL REPORT

BAR COMMISSION FUND: The account books maintained in the Secretary's office, which are regularly audited by the State Auditor, reflect the following receipts, expenditures and balance in the Bar Commission Fund, a dedicated fund subject to State appropriation and control:

EXPENDITURES, June 1, 1966 to June 1, 1967:

Personal service - - - - -	\$ 17,247.50
Travel expenses - - - - -	9,134.83
Other miscellaneous expenses - - - - -	9,131.73
Capital Outlay - - - - -	80.95
Transfers to Social Security - - - - -	603.43
	<hr/>
Transfers to general fund - - - - -	661.84
TOTAL - - - - -	-\$ 36,860.28*

RECEIPTS, BALANCE

Balance on hand June 1, 1966 - - - - -	\$ 17,867.48
Receipts, June 1, 1966 to June 1, 1967 - - - - -	32,149.20
	<hr/>
TOTAL - - - - -	\$ 50,016.68
Less expenses - - - - -	36,860.28*
	<hr/>
BALANCE, June 1, 1967 - - - - -	\$ 13,156.40

Personal Service covers salaries of a part-time Secretary, a full-time stenographer and a part-time stenographer. This item also includes payment to a bar examination monitor and fees paid to individual attorneys acting as General Counsel by appointment of the Commissioners. (In September, 1966 we paid \$2,220.00 to Thomas A. Miller for his services on the Court Reform Committee.)

Travel expense includes all costs of transportation, meals and lodging for out-of-town travel of the Commissioners, the Secretary, and other persons engaged in Bar activities, including Bar Committees and the General Counsel and other attorneys required to travel in connection with discipline investigation and prosecutions. It also covers a portion of the travel expense of the Idaho State Bar Delegate attending meetings of the House of Delegates of the American Bar Association.

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

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

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

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

CASH ON DEPOSIT, as of July 1, 1967,
 at the First National Bank - - - - - \$ 1,718.36

The July 1, 1967 balance of \$1,718.36 compares with the July 1, 1966 balance of \$1,753.01.

MEMBERSHIP

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

DIVISION	1966	1967
Northern Division - - - - -	128	131
Western Division - - - - -	347	363
Eastern Division - - - - -	154	153
Out of State - - - - -	21	21
Military - - - - -	0	1
TOTAL - - - - -	650	669

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

BY LOCAL BAR ASSOCIATIONS:

Local Bar Associations	1966	1967
Shoshone County - - - - -	16	16
Clearwater - - - - -	68	72
Third - - - - -	200	214
Fourth and Eleventh - - - - -	90	92
Fifth - - - - -	59	61
Sixth - - - - -	21	23
Seventh - - - - -	57	57
Eighth - - - - -	44	43
Ninth - - - - -	46	44
Twelfth - - - - -	18	16
Thirteenth - - - - -	10	9
Out of State - - - - -	21	21
Military - - - - -	None	1
TOTAL - - - - -	650	669

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

IDAHO STATE BAR PROCEEDINGS

DEATHS OF ATTORNEYS

Name	Place of Birth	Date of Death	Admitted to Bar
Clifford E. Fix - - -	Bottineau, N. D.	Aug. 23, 1966	Sept. 24, 1951
J. Charles Herndon - - -	Bloomfield, Mo.	Sept. 14, 1966	June 4, 1940
L. L. Sullivan - - -	Coffins Grove, Ia.	Oct. 5, 1966	Nov. 22, 1898
Lawrence B. Quinn - - -	Gardenia, Ida.	Dec. 28, 1966	June 4, 1925
The Hon. Chase A. Clark - - -	Amo, Ind.	Dec. 30, 1966	Feb. 20, 1908
C. Stanley Skiles - - -	Salt Lake City, Utah	Jan. 26, 1967	July 24, 1935
J. F. Martin - - - - -	Star, Ida.	Feb. 10, 1967	May 18, 1917
Paul T. Peterson - - -	Pilot Mound, Ia.	Feb. 19, 1967	June 19, 1915
Thornton D. Wyman - - -	Boise, Idaho	March 26, 1967	Sept. 27, 1924
N. G. Speropulos - - - -	Boise, Idaho	April 5, 1967	Oct. 14, 1960
Arthur W. Holden - - -	Harlan Co., Neb.	May 23, 1967	Feb. 8, 1909
Thomas B. Hargis - - -	Christiana, Tenn.	May 26, 1967	Aug. 31, 1915

BAR EXAMINATIONS

Two Bar examinations were given since the last Annual Meeting. One examination was given for the year 1966, immediately following the Annual Meeting, on July 25-26-27. Forty-two applicants wrote this examination and of these 38 passed and four failed. Of the four who failed, one filed a Petition for Review which was subsequently approved by the Supreme Court and he was admitted by Order of the Supreme Court.

The April bar examination was given the 3-4-5 of April, 1967. Ten applicants wrote the April exam and of these six passed, and four failed. There were no Petitions for Review.

DISCIPLINE MATTERS

There were 38 informal discipline complaints filed with the Bar Commission during the past year. As of May 27, 1967, the date of the last Commissioners' meeting, there were 12 disciplinary matters listed on the agenda, five of which were dismissed at that meeting. We have nine cases pending at the present time, which are currently under investigation.

We have one special complaint under Rule 177 still pending, which is a formal complaint but not a disciplinary matter.

No formal disciplinary complaints were filed during the past year.

MR. KIDWELL: Thank you Frank. It was interesting that while he was presenting the report that as of a year ago there had been 39 complaints filed for the ethical or purported ethical violations that this year we are down to 38. May we have another drawing? (Drawing omitted from record)

MR. KIDWELL: Is there any report from the prosecuting attorneys? Don Bistline has made a request for permission to make a special announcement and possibly it would fit in well at this time.—Don.

MR. DON BISTLINE: Thank you Vern. The announcement that I wanted to make relates to a meeting that is being held in November in Boise. It's a magistrates' meeting which will be a three-day meeting at which time

we will have the American Bar Association crew from Chicago in Boise to help us with our traffic court improvement program. The State Bar is helping us and sponsoring this as is the Prosecuting Attorney's Association and the Magistrates' Association. I ask the attorneys to take note of this because part of our program in this particular meeting is for the improvement of the courts and better traffic safety and better results all the way around. And therefore those of you who have layman justices and judges who have never attended one of these meetings this will be an excellent opportunity for you to urge them to get there. I think that the members of the Bar have a duty to get these laymen judges to these sessions as this will be the best one we have ever had in the State of Idaho. So I am hoping that each of you who have laymen judges in your area will take time to see that they not only get to the meeting but that they might get financial help from the county commissioners. Or in case they are city judges from your city or village. I think that this will be most beneficial to the State and it is a part of our court reform program and it will help to upgrade the type of justice that is being rendered in our cities and in the justice courts. Thank you.

MR. KIDWELL: Thank you Don. The next scheduled report calls for the president's report. As has become the tradition we have attempted to summarize the year's activities in the last issue of the Advocate rather than belaboring you with a list of activities during the past year. Just by way of summarizing, since a year ago we have had a court reform program and we have had a considerable number of meetings. We have had the resignation of a former Bar Secretary. We have had two Bar exams and we have appointed a new secretary. We have had the C. L. E. Institute. We have had the untimely death of Nick. We have had the replacement, and we have now had the annual meeting and we have been sued twice, both actions are pending. We will now have a drawing.

(Drawing omitted)

MR. KIDWELL: We have a coffee break scheduled. If you would reconvene promptly at ten-thirty and when you reconvene would you please sit by Bar Association. Possibly there will be some matters under our rules that are required to be voted on by the unit rule. So, we will be in recess until 10:30.

(Short recess)

MR. KIDWELL: We will reconvene the business session and we do request that you sit by local Bar Associations as they existed on the 30th day of June, prior to the redistributing. You will vote exactly as you have in the past by the Bar associations as they were read by Frank in the secretary's report. We made no effort to try to readjust or rearrange or realign the voting expression in six days. As a preface I would like to thank Mutual of Omaha for hosting the coffee break this morning. And despite the remarks of Scott Reed, I have a few more introductions. I would like to recognize Marcus Ware from Lewiston, Idaho, former President of the Idaho State Bar. We are specially pleased that this year there have been nine ex-presidents of the Idaho State Bar in attendance and we feel that this has been a record. Normally they are pretty hard to

come by once you get them loose from the job. We also have a letter from the North Shore Lodge Motel addressed to the Bar Association on behalf of the North Shore Motel and convention city.

"I want to express my sincere appreciation to your group for having favored us with your 1967 convention. It is our hope that you will enjoy your convention here as much as we have had having you. We extend an invitation for additional conventions." This in turn will be gift-wrapped and handed to the new officers who I understand are convening this afternoon. We have a number of bids already from convention cities for 1968. I know of four, so I can only wish them well in the resolving of the problem with respect to conventions. We now come to the resolution portion of the program. Historically the president of the local district bar from which the state bar president has been chairman will preside.

This year we are favored to have Orval Hansen from the Idaho Falls Bar as Chairman of the Resolution committee. The committee is composed of the local bar presidents. By way of review, we have a rule of the Idaho Bar Association that any items calling for voting by local bars will vote these number of votes: Shoshone County, 16; Clearwater, 72; Third District 214; Fourth and Eleventh, 92; Fifth, 61; Sixth, 23; Seventh, 57; Eighth, 43; Ninth, 44; Twelfth, 16; and the Thirteenth, 9. Those will be the number of votes that the various bar associations will be voting. I have also requested that Smith ride shotgun on the proceedings as parliamentarian. We will now turn the microphone over to the Resolutions Committee chairman, Orval Hansen.

MR. HANSEN: Mr. President and members of the Bar, it is my pleasure to present the report of the Resolutions Committee. I should like to express my appreciation to the members who did turn out in very large number for the committee session that continued throughout most of Wednesday afternoon. There were only three resolutions that came from the local bar associations on which action was taken. The rest of the resolutions that I will present were initiated by the committee itself by its required vote and in many cases were presented in response to suggestions by the Bar Commissioners. The committee acted on the substance of the resolutions which I will present, and then a drafting committee was appointed to reduce them to draft form for presentation here. I am hoping that if any of the committee members detect a marked departure from the resolution in its original form and the resolution presented here that you will have the good taste to conceal your shock and surprise. I had to go over my notes with some care in the presentation of these resolutions. Most of them are in the nature of what we would call courtesy resolutions expressing appreciation for the services rendered to the Idaho State Bar and in particular during this annual meeting. Resolution No. 1: Be it resolved that the members of the Idaho State Bar extend to Caxton Printers Limited, Bobbs-Merrill Company, Bancroft Whitney Company, Commerce Clearing House, Mathew Bender Company and the West Publishing Company our sincere thanks for their courtesy and generosity in donating various books and legal publications for door prizes at the annual meeting. Mr. President, I move the adoption of this resolution.

MR. KIDWELL: The resolution has been made. Is there a second;

AUDIENCE: Seconded.

MR. KIDWELL: Any discussion? Those in favor signify by saying aye? Those opposed? Resolution carried.

MR. HANSEN: Resolution No. 2: Be it resolved that the members of the Idaho State Bar at the 1967 meeting express our sincere appreciation to the staff and management of the North Shore Motor Motel for their efficient and courteous service to the members of the Bar and their families and guests and for the excellent facilities and services provided for all of the meals, meetings and other activities held during the annual meeting. Mr. President, I move the adoption of this resolution.

MR. KIDWELL: The resolution has been made; is there a second?

AUDIENCE: Second.

MR. KIDWELL: Any discussion? Those in favor say aye. Opposed? The resolution is adopted.

MR. HANSEN: Resolution No. 3: Be it resolved that the members of the Idaho State Bar at the 1967 annual meeting extend to Bert H. Early, Rufus King, Gerald W. Getty, Robert Jones and Dean Evans our appreciation for their most interesting and highly informative addresses and honoring us with their addresses at our annual meeting. Mr. President, I move the adoption of this resolution.

MR. KIDWELL: It has been made and seconded and I take it there is no discussion. We have enjoyed them. Those in favor say aye. Motion carried.

MR. HANSEN: Resolution No. 4: Be it resolved that the members of the Idaho State Bar at their 1967 annual meeting express to Mr. Henry Day our sincere appreciation for his thoughtfulness and generosity in making his residence on Coeur d'Alene Lake available to us for the barbecue on Thursday evening. Mr. President, I move the adoption of this resolution.

MR. KIDWELL: The resolution has been made, is there a second?

AUDIENCE: Seconded.

MR. KIDWELL: Discussion. We do sincerely appreciate the courtesy shown. Those in favor say aye. Opposed same sign; resolution adopted.

MR. HANSEN: Resolution No. 5: Be it resolved that the members of the Idaho State Bar express to the Title Security Company of North Idaho and to the Bank of Idaho for their courtesy in hosting the social hours and to the Idaho First National Bank and Xerox Corporation and Mutual of Omaha for their courtesy for hosting the coffee breaks during the annual meeting. Mr. President, I move the adoption of this resolution.

MR. KIDWELL: Is there a second?

AUDIENCE: Seconded.

MR. KIDWELL: Those in favor. The record will show it unanimously carried.

MR. HANSEN: Resolution No. 6: Be it resolved by the Idaho State Bar at its 1967 annual meeting that the advisory fee schedule of the Idaho State Bar be reviewed and revised to reflect such changes that may be required to bring the fee schedule in line with increasing costs and for the purpose of setting the recommended minimum fees for certain legal services which are not now covered, such as the estate planning, complex liens and other office work. Mr. President, I move the adoption of this resolution.

MR. KIDWELL: This resolution pertains to a study and recommendation that does not in the opinion of the chair come within the required vote by local bar associations. Is there a discussion? Well, those in favor of the resolution as proposed, signify by saying aye. Those opposed. Resolution is unanimously adopted.

MR. HANSEN: Resolution No. 7: Whereas since the 1966 annual meeting the members of the Idaho State Bar have sustained a great loss with the untimely death of Nick Speropulos whose leadership as a member of the Board of Commissioners of the Idaho State Bar and whose service to the Idaho lawyers has been characterized by the highest professional standards. Now therefore, be it resolved by the members of the Idaho State Bar at the 1967 annual meeting that we honor and pay our most sincere tribute to Nick Speropulos and we express our deep sense of loss at the death of a great lawyer and outstanding leader of the Bar and valued friend. And be it further resolved that we extend our heartfelt sympathy and warm good wishes to Mrs. Speropulos and to her children. Mr. President, I move the adoption of this resolution.

AUDIENCE: Seconded.

MR. KIDWELL: Any discussion? May the resolution be broadened to show that a copy of the resolution be forwarded to his family.

MR. HANSEN: The resolution will be so amended to include the provision that a copy be forwarded to his family.

MR. KIDWELL: As amended is it seconded?

AUDIENCE: Seconded.

MR. KIDWELL: Signify by saying aye. Those opposed? The record will show that it was unanimously adopted.

MR. HANSEN: Resolution No. 8: Whereas a committee of the Idaho State Bar has been appointed; has been previously appointed by the Board of Commissioners to make a study of the Idaho laws relating to deeds of trust and a possible unauthorized practice of law in proceedings incident to the foreclosure of deeds of trust. Now, therefore, be it resolved by the Idaho State Bar at the 1967 annual meeting that the study is endorsed and approved and that the committee is requested to complete the work and to submit a report covering its findings and recommendations including any proposed legislation to the 1967 mid-winter meeting of the Bar

Commissioners and the local bar presidents for their consideration in order that action may be taken and committee recommendations submitted at the 1968 annual meeting of the Idaho State Bar. Mr. President, I move the adoption of the resolution.

MR. KIDWELL: Motion has been made, is there a second?

AUDIENCE: Seconded.

MR. KIDWELL: Any discussion? Those in favor signify by saying aye. Opposed same sign. Resolution is adopted.

MR. HANSEN: Resolution No. 9: Whereas, through their cooperation and support of Bar activities the members of the staff of the University of Idaho College of Law have made a meaningful and lasting contribution to the success of the programs of the Idaho State Bar and have truly rendered a service of great value to the legal profession in Idaho. Now, therefore, be it resolved by the members of the Idaho State Bar at the 1967 Annual Meeting that we express to the members of the staff of the University of Idaho College of Law our deepest appreciation for their support of the Idaho State Bar and their service to the legal profession in the State of Idaho.

MR. KIDWELL: Motion has been made and seconded. Is there any discussion? Those in favor signify by saying aye. Opposed the same sign. Motion is adopted.

MR. HANSEN: Resolution No. 10: Whereas, in view of recent court decisions a thorough review of the Idaho Statutory laws relating to adoption has become necessary. Now, therefore, be it resolved by the Idaho State Bar at the 1967 annual meeting that a committee of the Idaho State Bar be appointed to conduct a thorough study and review of the Idaho adoption laws and to make recommendations for amendments to the laws to provide for adequate and proper notice to all affected parties to delete the provisions permitting adoptions without consent based on fault or abandonment occurring because of decrees of divorce based on allegations such as extreme cruelty or adultery and such other recommended changes as may be necessary to protect the rights of all interested parties and to promote justice.

Be it further resolved that said committee submit a report covering the findings and recommendations for proposed legislation to the members of the Idaho State Bar for consideration at the 1968 annual meeting. Mr. President, I move the adoption of the resolution.

MR. KIDWELL: Motion has been made; is there a second?

AUDIENCE: Seconded.

MR. KIDWELL: Motion has been made and seconded. Is there any discussion? Those in favor signify by saying aye. Opposed the same sign. Motion is adopted.

MR. HANSEN: Resolution No. 11: Whereas during 1967 Chief Justice C. J. Taylor will have completed forty years of distinguished and dedicated

service to the people of the State of Idaho as District Judge and as an Associate and Chief Justice of the Idaho Supreme Court. Now, therefore, be it resolved that the members of the Idaho State Bar at the 1967 annual meeting do honor and salute Chief Justice C. J. Taylor who through four decades and through devoted service as an Idaho jurist has made a unique and lasting contribution to the cause of justice and has by his service elevated and strengthened the Idaho judiciary. Be it further resolved that the members of the Idaho State Bar do extend to Chief Justice Taylor and Mrs. C. J. Taylor our deepest appreciation and our warm good wishes for continued health and happiness. Mr. President, I move the adoption of this resolution.

AUDIENCE: Seconded.

MR. KIDWELL: Is there any discussion? And you will note that the certificate of merit awarded to Chief Justice Taylor last night recognized the intelligence of the Idaho lawyers in showing a unanimous adoption of this resolution and is so declared.

MR. HANSEN: Resolution No. 12: I might say that this did not originate with the Chairman of the Resolutions Committee but in all humility I can't oppose it. Whereas the members of the 39th Idaho legislature gave their wholehearted support to the legislative program proposed by the Idaho State Bar and enacted into law almost all of the legislative recommendations of the Bar, and whereas, the people of the State of Idaho will benefit materially from the significant advances in many areas of law resulting from the action of the Idaho Legislature; now, therefore, be it resolved that the members of the Idaho State Bar at the 1967 annual meeting do congratulate and commend the members of the 39th Idaho Legislature for their cooperation with the Idaho Bar in securing the enactment of the legislative program. Mr. President, I move the adoption of the resolution.

AUDIENCE: Seconded.

MR. KIDWELL: The motion is made and seconded; is there discussion? Those in favor of the resolution as proposed signify by saying aye. Those opposed same sign. The resolution is adopted.

MR. HANSEN: Resolution No. 13: Be it resolved by the Idaho State Bar at the 1967 annual meeting that the commissioners of the Idaho State Bar appoint a committee to study proposed amendments to the Idaho statutes concerning small claims actions heretofore submitted to said commissioners and to propose amendments to said statutes for consideration by the Idaho State Bar at the 1968 annual meeting for submission to the legislature in 1969. Mr. President, I move the adoption of the resolution.

MR. KIDWELL: The chair here again will rule that there is no legislation other than a study proposed and that we will vote by the majority vote of those present. Is there a second?

AUDIENCE: Seconded.

MR. KIDWELL: Any discussions? Well, those in favor signify by saying aye. All opposed same sign? Resolution is adopted.

MR. HANSEN: Resolution No. 14: Whereas, as a lawyer, mayor, state senator, governor and 14 years as a federal judge, Chase Clark has served the people of the State of Idaho with distinction not only at the state and local and federal level of government but also legislative, executive and judicial branches, and whereas his public service has always been distinguished by wisdom, compassion and sympathetic understanding of his fellow man, and whereas Judge Clark extended the protection of the laws to all accused persons, especially indigents, far beyond the minimum constitutional requirements. And whereas, Judge Clark treated all who came into his court including lawyers, witnesses and litigants and jurors with courtesy and kindness while maintaining a court of dignity and stature; now therefore, be it resolved by the members of the Idaho State Bar at the 1967 annual meeting that we express our profound sorrow at the death of Judge Chase A. Clark and we do further express the deep sense of personal pride we feel for the privilege of knowing and having been served by such an able and dedicated public servant. Be it further resolved that we express our deepest sympathy to Mrs. Clark and to the other members of Judge Clark's family. And I would add Mr. President that a copy of the resolution be forwarded to the members of the Clark family. Mr. President, I move the adoption of the resolution.

AUDIENCE: Seconded.

MR. KIDWELL: The motion has been made and seconded; is there any discussion?

MR. MARCUS WARE: I would like to observe in connection with the resolution that Judge Clark himself set a great pattern not only for the indigent but for what we might call majority groups, for example the Coeur d'Alene and Nez Perce Indians here in the north, and I assume that he followed similar patterns in the south. In any matter pertaining to the Indian people that I directly or indirectly had any contact with or observed I noticed that he had a warm, compassionate understanding for their particular problem and in adapting themselves to the condition in which they were thrown in in this century, and I think that he was a most wonderful man in that respect in his outlook and vision.

MR. KIDWELL: Thank you Mr. Ware. Your comments are certainly well chosen. Further discussion? Well, those in favor of the resolution signify by saying aye. Those opposed? Resolution is adopted.

MR. HANSEN: Resolution No. 15: Whereas, the members of the Idaho State Bar have a continuing responsibility to furnish the leadership in bringing about improvement in our judicial system, and whereas, the Idaho State Bar has provided the leadership over the past thirty years to achieve the reorganization of the court system in Idaho in order to give the people of Idaho the highest quality of justice obtainable, and whereas by their overwhelming approval of amendments to the Idaho Constitution sponsored by the Idaho State Bar as part of the plan for court reorganization, the people of the State of Idaho have demonstrated their understanding of and support for changes in the court system in Idaho which have been recommended by the Bar, and whereas with the able assistance of the Idaho Citizens' Committee on the courts and many other citizen groups

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and private individuals, the Idaho State Bar supported and helped to obtain an approval by both houses of the Thirty-Ninth Idaho Legislature of legislation to accomplish the reorganization of the court system in Idaho which the Idaho State Bar believes would have resulted in a substantial improvement in the administration of justice in Idaho. And whereas, because of executive disapproval such legislation did not become law, now therefore, be it resolved by the members of the Idaho State Bar at the 1967 annual meeting that we reaffirm our support for and endorse court reorganization legislation substantially in the form approved by the 39th Idaho Legislature. Be it further resolved that the members of the Board of Commissioners of the Idaho State Bar are authorized and directed to take all necessary steps to secure the enactment into law of such legislation at a future session of the Idaho Legislature. Mr. President, I move the adoption of the resolution.

AUDIENCE: Seconded.

MR. KIDWELL: The motion has been made and seconded; is there any discussion? In the opinion of the chair this deals with a policy of the Idaho State Bar that requires voting by local bar associations. Do you desire a short recess to poll the delegations or are you prepared to vote?

MR. HOMER MARTIN: Question.

MR. KIDWELL: Those in favor of the adoption of the resolution will vote as their respective names are called. Shoshone County, 16 votes.

AUDIENCE: Sixteen votes vote aye.

MR. KIDWELL: Clearwater District, seventy-two votes.

AUDIENCE: Seventy-two votes aye.

MR. KIDWELL: Third District, 214 votes.

AUDIENCE: Third District votes aye.

MR. KIDWELL: Fourth and Eleventh, 92 votes.

AUDIENCE: Fourth and Eleventh Districts 92 votes aye.

MR. KIDWELL: Fifth District, 61 votes.

AUDIENCE: Sixty-one votes aye.

MR. KIDWELL: The Sixth District, 23 votes. (No response)

The Seventh District, 57 votes.

AUDIENCE: The Seventh votes aye.

MR. KIDWELL: The Eighth District, 43 votes.

AUDIENCE: Eighth District, 43 votes aye.

MR. KIDWELL: Ninth District, 44 votes.

AUDIENCE: Ninth District, 44 votes aye.

MR. KIDWELL: The Twelfth District, 16 votes. (No response)

The Thirteenth District, nine votes. (No response) For the record may we show that the districts not voting with the exception of the Thirteenth were present at the Resolutions Committee meeting. The motion is adopted.

MR. HANSEN: Resolution No. 16: Be it resolved that the members of the Idaho State Bar express to the North Idaho Lawyers and their wives our sincere thanks for their outstanding service to the Idaho State Bar in planning and arranging for our entertainment and otherwise helping to make this one of the most enjoyable and rewarding annual meetings ever held by the Idaho State Bar. Mr. President, I move the adoption of the resolution.

AUDIENCE: Seconded.

MR. KIDWELL: The motion has been made and seconded. Is there a discussion? Those that favor the resolution signify by saying aye. Those opposed, no. Motion carried.

MR. HANSEN: Resolution No. 17: Be it resolved that the members of the Idaho State Bar at the 1967 annual meeting do express our sincere appreciation to the Commissioners and officers of the Idaho State Bar for their faithful service to the Idaho Bar during the past year and for the effective leadership that they have furnished to make the past year one of genuine accomplishments and measurable progress. Mr. President, I move the adoption of the resolution.

AUDIENCE: Seconded.

MR. KIDWELL: I am half-way afraid to call for comment on this but we are in this deep, is there any discussion? Those in favor signify by saying aye. Opposed, the same sign. The resolution is adopted.

MR. HANSEN: Mr. President, that completes the resolutions which were approved for submission to this meeting by the Resolutions Committee.

MR. KIDWELL: Thank you very much Orval and Mr. Chairman. Under our rules are there resolutions to be proposed from the floor? Thank you very much and with that we will dismiss our parliamentarian. Thank you Sid for a job well done. (Applause) It now comes to the time when we hand the gavel over to the vice president who now moves up to the elevated chairs. I would like first of all to introduce the Jerry Smith fan club; would you like to stand up. (Young son of Jerry Smith stands up) And in order not to show partiality, the Vern Kidwell fan club. (Vern Kidwell's son stands up) (Applause).

I promised Jerry last night that once I did that Jerry would have trouble getting me back here, but he is crippled, you know. I do want to say thank you to Alden and to Ed and to Nick and to Jerry and to Hal for working with me. I want to extend my best wishes to LaMont Jones. He told me if he had known what was happening and that they were going to start meetings at eight o'clock and had told him that afternoon that he might not have volunteered. I also want to say thank you to Betty Lou. Betty Lou Smith,

would you stand up please. (Mrs. Smith stands) And to my wife Glenda. A special thank you to Frank Elam and Jim Lynch, our Bar Secretary last year. And Alden, would you please ask Maxine and Olive to step in in a minute please. We had planned as a finale of someone popping up out of a cake but we might have some consumer resistance but we are pleased to present to you and to say thank you to Maxine McGee, our Bar Stenographer and to Olive Scherer. (Applause) I trust you will tender to Jerry and his regime the same courtesy and the same cooperation you have shown to me. It has been a memorable experience and I take great personal pleasure in delivering up to Jerry Smith the new President of the Idaho State Bar. Jerry. (Applause)

MR. JERRY SMITH: What do I do now, Chief. I have got some drawings. I'll let you do the drawing. I remember and recall when I first came on as a Bar Commissioner that I commented that I had some very large shoes to fill in the filling of the shoes of our then retiring Commissioner from this district, Alden Hull. To give you a little example of just how large those shoes might be, when the commissioners assembled here prior to the meeting on the fourth day and we were being entertained across the lake by Harry Magnuson, a very successful North Idaho businessman and former college chum of mine, and Alden came up and Harry said of Alden, every community should have ten Alden Hulls living in it, and I knew then that I had large shoes to fill and this brought home the message to me. It is not only his large shoes, however, that I am concerned with now, it is the large shoes of Ed Benoit with whom it was my pleasure to have served as the junior commissioner. And it is the large shoes of Vern Kidwell now that I must fill and this is a Herculean task. The devotion to duty that Vern has shown during his tenure in the office has just simply been amazing. And I hope that Paul Boyd will receive me with open arms. I don't have anybody keeping house for me in my office as Vern has and his partners and if I am going to be as successful as he has been, Paul Boyd will have to receive me. Vern has introduced my wife and I want to say of her that I don't know whether you recall at Sun Valley two years ago that we had a guest speaker from Chicago by the name of Leo Carroll. He also, if you recall, had difficulty with his voice during his presentation. Something about the platform here or of the draft or something that does that to you, I guess. But this was prior to the time that I had been formally elected and Leo said about my wife, "who is really running for this position, you or your wife?" She has sustained me. She has been most considerate all of the time that I have had to devote to this position. And she is the power behind the throne, there is no question about that. Vern also introduced my fan club here, and John Daly told me as I came in a very cute little story which I think I ought to pass on. He said as he was standing outside of the hall this morning that he was approached by two young gentlemen and one of them asked him when did the "inauguration" take place and John replied, don't you really mean the "coronation." But I am pleased to have the fan club here and I do thank you boys for both of you being in attendance. As Vern indicated, during the past year we have had a number of successes and a great number of disappointments and of course not the least of which was the untimely passing of Nick. I think anybody who can understand the emotion that we,

as a Bar Commission, felt with this passing, we really felt, however, that we really replaced him with the very best person that we could under the circumstances. Hal was Nick's partner and if anybody felt his loss any more than we did, it would have been Hal, and we felt that Hal could come closer to filling Nick's shoes than anyone else we could select. And Hal in doing this has brought Nick with us on the Commission and will continue to do so. He knew him better than anybody and we think very highly of Hal and Hal is going to do a good job as a commissioner. I just wanted to comment too about next year's program or what I will perhaps have most in mind and I think the biggest thing that we have confronting us is still this court reform situation. I was glad you passed that resolution. A year ago, during Ed's tenure, we carried on a program of education of the lay citizenry through these conferences that we had throughout the state and I think that we have already heard from the American Judicature Society that they will sustain us in this type of a program again and I think that the one big thing that we can accomplish is to carry through with this kind of proposition again and get these things accomplished. We already have the nucleus of the citizens behind us with their organization already there and I think that the Bar Commissioners are going to make use of it. We are going to supplement this resolution and do work on that program. Among the other, very many other things, that we will have coming up I hope that next year of course is another election year and I hope that we will lay the foundation that we will need that we can capture those extra five votes if we need them. I hope that we won't need them this time but if we do why we will endeavor to bring the message down to the people through the citizens conferences and we will cooperate with them and do everything that we can to supplement this resolution. I think this is most important. I take some small pride in the North Idaho people. We didn't experience the kind of opposition in North Idaho that was experienced in some other parts of the state. We did lose three legislators on the over-ride vote but we had the rest of them solid and we had no opposition in the Bar Association up here. Everybody up here really understands the need for court reform and is anxious to have it. And we are going to pursue this and we are going to accomplish it. Now, I would be somewhat remiss in my duties here this morning I think if I didn't introduce the other members of my family who are present and my unofficial family who are present. As a small boy I grew up with a chum. We were inseparable and often thought of as friends and his family became my family. Since I have been involved in Bar activity work, why, my aunt; quote aunt, quote uncle, unquote, have been present at every meeting and have sat through all of the business sessions and have sustained me and they have shown me a great deal of respect and I am referring to my Aunt Edna and Uncle Homer Martin. I would like to have them stand up. (Applause) I wonder if at this time I could ask for Mr. Ted Rowe to come forward please.

MR. TED ROWE: As a representative of Mutual of Omaha I would like to extend my congratulations to you as now past President and to present to you a plaque as a small token of our appreciation for the business that we have had through the Idaho State Bar Association.

MR. KIDWELL: Thank you Mr. Rowe and thank Mutual of Omaha and thanks for the coffee breaks. (Applause)

MR. SMITH: Now, I would ask the new Vice President to assume the podium here to make a presentation.

MR. HAL RYAN: Thank you Jerry. I think before I present this, I see one person in the audience who should be presented ahead of my little presentation and that is the wife of our new Junior Bar Commissioner, Mrs. Jones; would you stand please. (Applause)

You know that Vern and you and I went to law school at the same time and Vern got out a year or two ahead of Jerry and I recall that Jerry and I took the bar examination together, so here we stand trying to get this organization going. And too, I found out that among the other duties that I had to do now is to handle bar examinations on occasion and to write questions and I pointed out to Frank Elam, God I haven't seen one of those things since I took that bar many years ago with Jerry, but here we go. Vern I think the Bar owes you a great debt. We have got a few little items for you. We realize that its time for you to retire and we realize that you feel that it is a good idea. While LaMont and I were with you on the golf course yesterday we didn't know whether you should retire to the golf course or go back to fishing. I did hear you comment at one point that you desired to take lessons and we don't know your pro or how to line this up but we feel this should be something that you should take into consideration and we would ask that Glenda pursue that so that when you come back next year and join us we can see the benefits of that long drive again like that that you made on this one particular hole. But, in sincerety Vern, the first little present we have here isn't wrapped but we do know that after watching that golf game yesterday that you are going to need to measure your fish, so here is a six-inch rule that we give you. (Laughter) Then we have two other little items which we wish you would open for the sake of the audience to also show Jerry's and LaMont's and my sentiments knowing which direction you will be going after you leave this podium.

MR. KIDWELL: South. Thank you very much, Hal. Is there any special order?

MR. RYAN: No order.

MR. KIDWELL: I must tell you the true story about this longest drive yesterday. It is true I was ahead of the ball, that was the longest drive, but I was playing the other fairway backwards. A flashlight and screwdriver, just what I need. Thank you; You know one thought occurs to me—we do have a practical guide to accounting and I think probably that that should be donated to the commissioners somewhere along the line. My wife is highly critical; she is a paper wrapper saver. And this is what I really appreciate, The Sixth Anniversary DeLuxe edition of the Fisherman's Digest. Thank you very much Hal.

MR. SMITH: A couple of other things I would like to mention before I entertain a motion for adjournment. One of the things that I wanted to

mention was this Resolution Committee with Orval Hansen chairing it this year and as you know it consists of the local bar presidents and they didn't draft a resolution commending themselves which I guess showed good taste but actually I think that they do a lot of work really. But they come down and this has become an institution, and they come down to the mid-winter meeting in Boise and we go over matters that are of mutual concern and then they come and spend a day or sometimes longer than a day in working out the resolutions and in going over them aside from the fact that they are running their local bar associations, so I would feel at this time that we ought to resolve that the Resolutions Committee be commended for their fine work and effort at this convention. (Applause) I take that as a unanimous vote. The other thing that I wanted to say was that you will recall at the time that the session opened that Mayor Gardner and the Rev. Wanamaker said that they had been working for some little time on ordering up favorite weather for this convention and I think that their efforts should be commended because we surely have had that. (Applause) Unless there is something else to come before the convention at this time, we will stand adjourned.

(Convention concluded at 11:30 a.m.)

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