

Forty-Fifth Annual Meeting
SUN VALLEY, IDAHO
JUNE 24, 1971

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Proceedings of the
Idaho State Bar

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1971 ANNUAL MEETING OF THE IDAHO STATE BAR ASSOCIATION

HELD AT SUN VALLEY, IDAHO

THURSDAY, JUNE 24, 1971

and

SATURDAY, JUNE 26, 1971

1971 ANNUAL MEETING OF THE IDAHO STATE BAR ASSOCIATION

PRESIDENT MILLER: This is the 1971 annual meeting of

the Idaho State Bar Association, pursuant to call per notice.

The first order of business will be the appointment of

a parliamentarian. Ed Benoit, are you here?

MR. BENOIT: I'm here.

PRESIDENT MILLER: Will you act as our parliamentarian?

MR. BENOIT: Yes, I don't know anything about parliamentarian-

tary law, but I will be honored to act.

(Laughter)

PRESIDENT MILLER: Any rules you can help with will be

fine. We will appoint a committee to canvass the ballots.

Tom Nelson, Alden Hull, and Jim Schiller will be considered to

act in that regard. The ballots will close at noon, and you

will report back Saturday morning the product of your canvassing.

At this meeting today, we are going to have introduced the

report of the committee upon resolutions. There are some twelve

to fifteen resolutions. We will have discussion today and

amendments if you like. We are going to try to cut down our

Saturday morning meeting to a final business session of the

least amount of turmoil and struggle. At this time I will turn

the meeting over to the chairman of the resolutions committee

for the report of that committee's meeting yesterday.

RESOLUTIONS COMMITTEE CHAIRMAN REED CLEMENTS: Thank

you, Mr. President. Gentlemen, the resolutions committee met

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1 long and hard yesterday afternoon. We have considered what we
2 discussed at the midwinter meeting, and I'm sure all of these
3 resolutions have been read, or were able to be read by members
4 of the bar. They are lengthy. Twelve in number, I believe,
5 and I'm going to summarize some of these resolutions, and if
6 you care to, you can ask me and I would be glad to read the
7 resolutions verbatim. All of the Districts were represented
8 yesterday. The commissioners were available for discussion,
9 and so far as the resolution committee was concerned, and as
10 I will relate to you at the end of this report, there is one
11 other resolution that has not as yet by the resolution commit-
12 tee proper, been prepared for submission, but it will be on
13 Saturday morning. Now, the first resolution that was discussed
14 and resolved at the meeting yesterday was with regard to the
15 cost of annotations and \$2.50 for the desk book which we all
16 have. Now, this resolution was published in the Advocate. I
17 will read it if you desire, but in essence it resolves that
18 the commissioners of the Idaho State Bar be authorized to
19 deduct and retain from the funds otherwise distributable to the
20 various Districts of the Bar the sum of \$2.50 per licensed
21 member of the Bar for the purpose of defraying the cost of the
22 annotations to the Idaho State Bar desk book. This resolution
23 was a commission resolution. It was moved by the Fifth District,
24 seconded by the First District and carried in the resolution
25 committee. The second resolution -

1	PRESIDENT MILLER: We're supposed to discuss each one.
2	MR. CLEMENTS: Fine. Is there any discussion on this?
3	Actually, gentlemen, as you know, the desk book is a very
4	useful instrument for all lawyers, and by rule of the Supreme
5	Court, the orders and directives and the rules of procedure
6	must in fact be published in this desk book. Now, to eliminate
7	the necessity of having to go back and circulate the Bar for
8	payments of their annotations and updating of the book, it
9	would be much easier, simpler, for the State Association to
10	annotate your desk book, send out the annotations and deduct
11	from the Bars who would otherwise be paying into the State
12	Association the sum of \$2.50, so that there would be no question
13	about having to go through collection problems, etc.
14	MR. BENNETT: Could I ask a question?
15	MR. CLEMENTS: Yes.
16	MR. BENNETT: Is the voting on these resolutions to be
17	deferred until Saturday?
18	PRESIDENT MILLER: Saturday morning. Yes, Ed. Our
19	rules provide that the last day of the meeting shall be the
20	day of conducting business.
21	MR. BENNETT: So we can't do it today.
22	PRESIDENT MILLER: We can't vote on them today.
23	MR. BENNETT: Saturday.
24	PRESIDENT MILLER: Unless you can change your calendar.
25	Our parliamentarian can make a new ruling.

(Laughter)

1	PRESIDENT MILLER: As I understand it, Ed, it was the
2	directive up to the resolution committee that we would have
3	these resolutions initially, thereby allowing whatever discussion
4	is pertinent today, and have a little bit more time in which to
5	consider what we had recommended, or what the resolution
6	committee came up with.
7	MR. BENOIT: Could you tell us after each resolution
8	what the committee's recommendation was?
9	RESOLUTIONS COMMITTEE CHAIRMAN: Yes. This was passed
10	with one dissent by all of the resolutions committee.
11	MR. BENOIT: What do they remit now? \$20?
12	RESOLUTIONS COMMITTEE CHAIRMAN: Yes. On a \$100.00 fee
13	basis. Anyway, as I understand it, a man who had been in
14	practice long enough to pay a \$100.00 license fee, they send
15	in to, and the State remits back to his District, \$20.00. They
16	will under this resolution remit back \$17.50, because that
17	would be his share of the annotation of the desk book. Actually,
18	you would pay this anyway. It's just a matter of allowing
19	centralization of the collection for the funds, and the admini-
20	stration of the annotations directly from the Boise office. -
21	Is there any other discussion with regard to that resolution?
22	(NO RESPONSE)
23	RESOLUTIONS COMMITTEE CHAIRMAN: The second resolution
24	which was acted upon yesterday afternoon was a resolution
25	originating from the commission. It has to do with the purchase

1 of equipment whereby we can disseminate and summarize the legis-
2 lation at the time that the legislature is in session. Now,
3 I might read this one.
4 (RESOLUTION NO. 2 READ)
5 The Third District moved for the passage of this resolu-
6 tion. The First District seconded the motion. It was passed
7 with just one dissenting vote. I might say, gentlemen, that
8 the way the activities of the legislature as far as you know
9 now, have re-adapted their printing procedure, and often times
10 we find a bill that is actually being considered, is in fact -
11 hasn't been printed. And the hearings are conducted thereon,
12 and we feel that through the purchase of this machinery and
13 equipment we will be able to keep our ear to the ground and
14 know what the bills are that are in fact being considered
15 although they are not printed. We feel that this is essential
16 that we have this information, because of the change in manner
17 in which the legislature has been handling their legislation.
18 This can be supplemented, of course, by you securing the bills
19 that were printed in the past, but it will allow us to dissem-
20 inate items that are of particular interest to the Bar, and I
21 think after the last session of the legislature you realize
22 the importance of this situation. I reported on - Yes?
23 BOB HUNTLEY: How many times during the session do you
24 expect to mail out these things, and is it to every member of
25 the Bar?

1 RESOLUTIONS COMMITTEE CHAIRMAN: Yes.

2 BOB HUNTLEY: Isn't there a considerable mailing expense

3 tab on top of this thing?

4 RESOLUTIONS COMMITTEE CHAIRMAN: This will be assumed by

5 the Association. They have a bulk permit. It was anticipated,

6 Bob, that what they'd try to do would be to collect all of the

7 things that were of vital interest to the Bar proper, say on a

8 Friday, and print these up by the use of this machine. The

9 type of machine indicated, that I talked with Ron about, would

10 be such that we could run off sufficient copies summarizing the

11 legislation, giving the position and history, their status, and

12 so forth on those matters, and run them off on Friday and get

13 them in the mail. Now, there was some discussion with regard

14 to the rapidly by which we could expect these to be delivered

15 under bulk mailing. You know, this hasn't been too satisfac-

16 tory. And it may be necessary on occasion on something of

17 what we would term great importance, that this be sent first

18 class mail. Now, what you're doing here is, the members are

19 authorizing the purchase of equipment. The printing, paper,

20 mailing and so forth would be paid by the Association in Boise.

21 Yes?

22 BOB HUNTLEY: One further question. If the legislature

23 is in session, say even as much as eighty days every two years,

24 or every year, I mean, you're contemplating maybe six or seven

25 mailings per year. Has it been determined that the machine

1 would pay for itself rather than renting some kind of a print-

2 ing process? Or do you have another use for it?

3 RESOLUTIONS COMMITTEE CHAIRMAN: Well, this, Bob, could

4 be used for other purposes other than this, by the Bar office,
5 but we have no equipment right now, as I understand it. We

6 have to utilize other people's equipment for copying purposes

7 and so forth. This is not practical. Also, any of the equip-

8 ment that we have available for our use gratuitously or on a

9 cost basis would be totally insufficient for this purpose from

10 the standpoint of speed, also from the standpoint of getting

11 out several sheets, particularly in one mailing. There's no

12 way that we could either rent or utilize other equipment for

13 this purpose. We do feel that this piece of machinery naturally

14 would have uses other than legislative information dissemination.

15 (Laughter)

16 PRESIDENT MILLER: Ron is here. He can explain the type

17 of equipment we're talking about. Ron?

18 RON KULL: Well, I think Reed has explained it very well,

19 but what I'm talking about is the small Multilith, which is

20 very fast, which will - you can print off of a paper plate,

21 that the girl can simply type. It's a very inexpensive

22 printing operation, really. Of course, we can use a machine -

23 My excuse for getting it is for the legislation, but we do an

24 awful lot of printing as you can see from your packets. Almost

25 all of this stuff could have been printed on our Multilith had

1 we had one. Everything that you received as you registered
2 today. I think this would be a big saving, because we had to
3 spend a lot of money on this for outside printing. All of our
4 CLE materials, our Bar examinations, of course, have to be
5 printed, but I think we could really utilize this. But I
6 think, of course, the legislative service is very important.
7 I detected a certain lack of information even in Boise on
8 pending legislation, and this got even worse out in the rest of
9 the State. So I think this might be an additional service that
10 the Bar would welcome, if you so desire. Yes?
11 JUDGE E. B. SMITH: I wonder why you're contemplating
12 duplicating something that's already available.
13 RESOLUTIONS COMMITTEE CHAIRMAN: It's not available at
14 the time that it would be duplicated by the office, Your Honor.
15 You see, that's the point. There was a luncheon meeting yester-
16 day, and a legislator was present. We found that in the
17 legislature, rather than having as they used to, having the
18 proposed bills printed before there were hearings on it and
19 consideration of that, and as of the bills that are there, and
20 before they're ordered out for printing, they're already
21 having hearings and discussion with regard thereto. Now, if
22 you'll wait until that bill is printed and then you rely on
23 the Capitol Reports for your idea of what's going on in the
24 legislature, it's going to be too late.
25 JUDGE SMITH: Excuse me. That's not what I'm referring

1 to. Any attorney, I think, is available to get on the mailing
2 list of the bills. Just as fast as the legislators get them
3 themselves, you have them available to you. And in addition
4 to that, the only other thing you should ask for is the daily
5 data sheet, and that will tell you the status of the bills,
6 and where they are, in what committee and everything. - All
7 the information you need like that. It looks to me like you're
8 just duplicating the services already available.
9 RESOLUTIONS COMMITTEE CHAIRMAN: Well, I think to that
10 extent there would be. There's no question about that, but
11 the point of the matter is that while lots of attorneys get
12 lots of bills and lots of attorneys utilize the service to
13 which you refer, yet that in itself, as we know, we've got too
14 much to read, anyway, and lots of these things that are of
15 vital interest, there's no way that the Bar can get information
16 as to the history of that bill and how we could effectively
17 either assist the legislation by giving our comments or
18 circularizing the Bar to determine the position that we should
19 take with regard thereto. Lots of the legislation that we find
20 that vitally affects the Bar has not in fact been disseminated
21 to the membership. Now, this wouldn't essentially be for the
22 purpose of processing and verbatim itemizing all the legisla-
23 tion at all. It would be zeroed in on what we feel would be of
24 common interest to the Bar, perhaps not in verbatim form, but
25 summarized. Then we could point out in this bill those items

1 which the Bar might feel should be amended or otherwise
2 corrected. Maybe we can point out faults in it so we can give
3 not only the bill proper as printed or as being considered,
4 but also what we feel, if there is a bill for our interest and
5 it's not apparently receiving note, this information can be
6 disseminated along with the summarization of the legislation.
7 So I think we would get a whole lot more response from the Bar.
8 We would have a more informed Bar. At the time that we get
9 down in our midwinter meeting or whatever with a legislator,
10 we find that lots of the lawyers don't even realize what they're
11 considering or the effects on the Bar of that particular piece
12 of legislation. We felt that we were in a real hole last year,
13 and I am satisfied that what we can anticipate reasonably to
14 come before the next session, there are probably several things
15 of great interest to the Bar. We would like the Bar totally to
16 be informed. Not just a few on the legislative committee or
17 the commission or the resolution committee. We should really
18 have the full Bar behind any position that we take. We can't
19 do that unless the Bar is individually informed. Yes?
20 WAYNE KIDWELL: Wayne Kidwell from Boise, wanting to
21 clarify Clarence's point. This last session, the legislature
22 fell into a pattern, Clarence, where a few committees were
23 considering bills before they had been introduced, or before
24 they would show up on the daily data or before they would go
25 out on the mailing. Nobody would know about the legislation

1 except that committee that was considering them, and they would
2 go along and have hearings and get to the point of saying,
3 "This will be introduced and when we get it back, it will be
4 referred out with a do pass," before anybody knew what was
5 happening. Now, that's the problem, I think, that Reed is
6 referring to. Secondly, general information, hopefully, this
7 will no longer be in practice. There is a resolution that will
8 be proposed to the legislature to eliminate this type of pro-
9 cedure. A change in our rules so that this could not be done,
10 but nevertheless this would not negate the need for probably
11 this kind of presentation.

12 RESOLUTIONS COMMITTEE CHAIRMAN: I appreciate that
13 clarification, Wayne, and don't you also think it would be
14 advisable rather than just have the summary or the bill or
15 whatever being considered, to point out wherein the legislative
16 committee may have had a question or need assistance or want to
17 know what our position might be with regard to how we might
18 possibly affect better legislation if we were all informed. Do
19 you believe that to be true?

20 WAYNE KIDWELL: Yes, I do. I think, however, that in
21 addition to that, a simple copy of that data sheet that
22 Associated Industries puts out, the one paragraph summary of
23 all bills, could be included within expansion of bills that
24 would affect the attorneys. That would be in order, and it
25 wouldn't -

1 RESOLUTIONS COMMITTEE CHAIRMAN: And we could easily do
2 that with this equipment we're contemplating.
3 WAYNE KIDWELL: Right.
4 RESOLUTIONS COMMITTEE CHAIRMAN: Are there any other
5 questions? - Gentlemen, there's lots of chairs up in front -
6 said the preacher with a grin on his face.
7 (Everyone laughing)
8 All right. In any event that was passed by the resolu-
9 tion committee and is submitted. Yes? I'm sorry, Gene.
10 EUGENE C. THOMAS: In connection with this equipment
11 and the program that it contemplates, I feel that we should
12 also be considering the keeping the members of the Bar advised
13 of what is being said and done in the legislature that has to
14 do with the public relations and the image of the Bar.
15 Occasionally, comments are made in committee and on the floor of
16 the Senate or the House which would be most important and
17 interesting to members of the Bar, and of course, are only
18 picked up by people who note them with interest and write them
19 down. They are not picked up in legislative services. And
20 while we're interested in the legislative matter of good legis-
21 lation being adopted and bad legislation being killed, I think
22 we are also interested in keeping the Bar informed in these
23 areas where the public relations of this profession frequently
24 is involved. I think that if someone in committee or in
25 debate has made a reference to the lawyers in Idaho or the

1 particular practices in various parts of the State, the lawyers
2 who might be referred to, should know about this, and if it
3 needs clarification or correction, they should give it. There
4 have, in fact, been slanderous remarks made by some legislators.
5 I have heard specifically some remarks on the House during
6 the debate on the Probate Code that were terribly unfair,
7 critical and simply wrong - factually wrong. And your clients,
8 if they read the newspapers, get some terrible impressions on
9 what was happening on probate fees. And I don't know that the
10 legislative committee could do anything about it, but I do
11 think that if you would have had a report from your Bar office
12 that this was being said, it would have been important to you
13 in your local dealings and in your discussions with your own
14 clients about how you practice your profession. So there is
15 a public relations aspect, and I'm sure that Ron contemplates
16 that this would be a service that would cover all matters of
17 interest to the Bar that we could possibly collect for you.
18 I would like you to know that this probably has as much to do
19 with this resolution, in my mind at least, as does the specific
20 legislative committee activity. Thank you, Mr. Chairman.
21 RESOLUTIONS COMMITTEE CHAIRMAN: The third resolution
22 acted upon was with regard to the printing of the proceedings
23 of the annual meetings. I'll read the resolution clause.
24 (RESOLUTION THREE READ)
25 As you know, this is a tremendous expense. All of the

1 information of the acts of the Association and their meetings
2 will be available for your use, but what we're asking here is
3 merely to eliminate the rather burdensome expense of printing
4 the matter up in booklet form and circulating it to the entire
5 membership on an individual basis. This resolution was moved
6 by the Fifth District, seconded by the First District and
7 passed with the unanimous vote of the resolution committee.
8 Are there any questions with regard to this resolution?
9 The fourth resolution concerned court filing fees and
10 it reads as follows:
11 (FOURTH RESOLUTION READ)
12 This resolution initiated in the economics committee.
13 At the resolution committee meeting, it was moved by the First
14 District, seconded by the Fifth District, and passed with the
15 unanimous vote by the entire resolution committee. - Are
16 there any questions or comments?
17 (NO RESPONSE)
18 The Fifth Resolution that we considered, our action on
19 this resolution was negative. It originated in the First
20 District. It said -
21 (FIFTH RESOLUTION READ)
22 This resolution failed for lack of second. I report it
23 to you just as a matter of what the resolution committee con-
24 sidered. There is a statute with regard to the handling of
25 these funds, and therefore as such, the statute would have to

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be amended before such a resolution could be considered, and
the statutory amendment was not submitted with the resolution
and therefore, it failed for lack of second. So that is not
reported.
Now, gentlemen, I would like your forbearance here as I
now discuss an extremely lengthy resolution which you have all
received a copy of. Now, this has regard to the Code of
Professional Responsibility. You all received a lengthy report.
We had it summarized. We had comments carefully prepared, and
a backbreaking job well done in this instance by your
commissioners and Gene Thomas. Now, as circulated, there were
some additional modifications of this made by amendment, and
therefore we put this together in a package, so that in addi-
tion to what you received in the mail by this mimeographed
method, there was a correction made by Resolution No. 7 which
initiated in Boise. It was corrective in nature. The official
name of the State Bar Association is Idaho State Bar. This was
changed in the body of the document that you received, and the
provision of the Code of Professional Responsibility should be
corrected, striking the word "Association" in each place where
the Code refers to the Idaho State Bar Association. That word
would be stricken. Then on the first line of DR2-103(D) (3), a
comma should be inserted after the word, "Association," so that
said provision shall read as follows:
(ABOVE-MENTIONED PROVISION READ)

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Then it is recommended that sub-paragraph B of DR2-106 with
reference to fees for legal services be omitted, but that the
statement of factors to be considered as guides in determining
the reasonableness of the fee as stated in the American Bar
Association's draft of the Code of Professional Responsibility
be made a part of the rules and regulations governing
procedures for the "Peer Review Committee", which committee,
we understand, is to be organized at the annual meeting of the
Idaho State Bar. Then, with the deletion of sub-paragraph B,
sub-paragraph C becomes B and so forth. Now, I'll go through
these. Incidentally, we struck the classification determina-
tion as to how you determine the reasonableness of the fee,
but we reinserted that by establishing the Peer Review
Committee and then authorized the sum and substance body of
the American Bar Association's criteria to be incorporated in
a proceeding before the Peer Review Committee.
Now then, in our next resolution, number 8, this has to
do with fee charges and with regard to misunderstandings con-
cerning fee charges fixed by members of the Bar, and it is
important to the public in general and to the legal profession
in particular that such matters be considered by fair, know-
ledgeable persons possessing the capacity, authority and
responsibility to render an opinion thereon, and -
(RESOLUTION 8 READ)
Now, if you'll just bear with me, we'll get this whole

1 package done, and then we can go from there. The next resolu-
 2 tion is denominated 8A. And after establishing by 8, which I
 3 just read, the Peer Review Committee, I'll read the resolution,
 4 part of it. This has to do, as I said, with the deletion of
 5 criterion aspects regarding the fixing or charging of what may
 6 be questionably a reasonable fee. So it is resolved -
 7 (PART OF RESOLUTION 8A READ)
 8 Now, this is lifted, I believe, verbatim from the American Bar
 9 proposal.
 10 (BALANCE OF RESOLUTION 8A READ)
 11 In summary, gentlemen, we lifted that out of the Code of
 12 Professional Responsibility, which we're advocating, set up a
 13 Peer Review Committee, and then put this resolution back in.
 14 So the Peer Review Committee had a criterion, and you will
 15 know the factors being considered if you are involved in a fee
 16 dispute.
 17 Now, another resolution here, which pertains to this
 18 Code of Professional Responsibility, which we felt properly
 19 should be included in the package was designated as Resolu-
 20 tion 9 and has to do with ratings.
 21 (RESOLUTION 9 READ)
 22 Now, we put together 6, 7, 8, 8A and 9, all of which I
 23 either read to you or were embodied in the mimeographed
 24 material which you previously received, and each of you did.
 25 This resolution was then packaged and submitted for the

consideration of the resolution committee. It was moved by the Seventh District, and seconded by the Fourth District that this resolution as a package pass in full. This passed by unanimous vote. Now, are there any questions?

(Laughter)

DENNIS OLSEN: Dennis Olsen, Idaho Falls. I was just reviewing the criteria of the factors to be considered as guides in determining the reasonableness of the fee, and I noted that the factors do not include the recommended fee schedule established by the Bar.

RESOLUTIONS COMMITTEE CHAIRMAN: It says fees customarily charged, does it not?

DENNIS OLSEN: That's right, but I don't think that necessarily incorporates that recommended fee schedule.

RESOLUTIONS COMMITTEE CHAIRMAN: I think the thought and intent, Mr. Olsen, was the fact that the minimum fees as established by the fee schedule. There may be, that is the minimum fee only. A discussion of the matter of the charge in the area would be one factor to be considered in the fee schedule.

DENNIS OLSEN: Well, that question rose in my mind. I saw that particular provision, but then -

RESOLUTIONS COMMITTEE CHAIRMAN: I think that was the intent. I think, as a matter of fact, that's the American Bar Association wording in that. I suppose with the thought in

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1 mind that - derived from that and so forth, various fee schedules,
2 maximum and minimum might be involved, but it would probably -
3 the water would find its own level in fees customarily charged.
4 I would assume that's what they have in mind as far as the
5 American Bar Association.
6 DENNIS OLSEN: There's quite a difference between what
7 fees are customarily charged as contrasted with what's in the
8 fee schedule, isn't there?
9 RESOLUTIONS COMMITTEE CHAIRMAN: Yes. - Mr. Thomas,
10 would you speak to that point, please?
11 MR. THOMAS: Mr. Chairman, I think that Mr. Olsen's
12 point is an important one, and I would like to mention that in
13 working with this problem, it seemed to me that we might be
14 concerned at times with a lawyer who actually solicits practice
15 by charging unreasonably low fees, and thus commits an unethical
16 solicitation. If that should occur, that matter would be
17 heard and considered by the grievance committee of the Bar,
18 in connection with the discipline of that lawyer for his
19 solicitations. The Peer Review Committee would be concerned
20 with the complaint of a client who is charging, not that the
21 attorney has been unethical, but that in fact, the fee is one
22 which is objectionable by reason of being too high. Under the
23 circumstances, I think that the ABA language, Dennis, is par-
24 ticularly well suited, at least in the Peer Review Committee.
25 And certainly, I am sure, the committee members would be

1	affected in their thinking by the evidence that the advisory
2	fee schedule of the District or the State contains certain
3	provisions of the elements of their dispute. The matter of
4	ethics of the attorney for solicitation would involve - really
5	the contrary situation, if a man has solicited practice. And
6	I would like to see us keep the language in its pure form of
7	the ABA in the Peer Review records in connection with the
8	disputes of clients who complain that they have been victimized
9	by improper fee, so that we may have the benefit of the research
10	and the proper materials as to the proper reading of that lang-
11	uage. Mr. Chairman, with your permission -
12	RESOLUTIONS COMMITTEE CHAIRMAN: Yes.
13	MR. THOMAS: I would like to remark generally upon the
14	package of resolutions, if I may.
15	RESOLUTIONS COMMITTEE CHAIRMAN: Yes. I was going to
16	see what developed in the discussion. Certainly, I think this
17	ought to be summarized. And I know your word on it would be
18	helpful.
19	MR. THOMAS: In the interest of everybody's time, and
20	in consideration of the state of health of a number of us who
21	have symptoms of - sort of a dull, throbbing -
22	(EVERYONE LAUGHING)
23	(Chuckling) But it's not a laughing matter at all.
24	(EVERYONE LAUGHING)
25	I will try to comment on the assumption that first of

1 all, every member of the Bar has had at least one and I think
2 most of us have had several copies of this Code, come to his
3 office. And I think all of those concerned with the business
4 of this convention have had the opportunity to read the materi-
5 als that have been published with regard to our revision of
6 this Code for Idaho. In the first instance, this does repre-
7 sent the action of the Idaho State Bar on a matter which is
8 perhaps one of the finest things that the ABA has ever done in
9 updating the Canons of Ethics. I think it is one of the very
10 proud chapters in the history of the ABA that it has taken on
11 this task and is now in a position to report that 33 of the 50
12 states have adopted the Code. Charles Nicola of the Denver
13 Bar is the ABA representative concerned with our Region and
14 interested in our State and the States around us adopting this
15 Code. I want you to know that the ABA has consistently, through
16 Mr. Nicola and through Ed Wright, the President, and formerly
17 the chairman of the committee that developed this Code - has
18 consistently encouraged each State to analyze the Code and make
19 revisions that it found appropriate in view of the particular
20 characteristics of the State, and of the practices carried on
21 there. We have done this. Charles Nicola is fully familiar
22 with the details of the revisions that we have made which are
23 important revisions. And I can tell you that he has told me
24 that he finds them very appropriate, very satisfactory, and
25 agreed after what is now a year of working on this with the

Four other States that we worked with in this Mountain States Bar Association called the Jack Rabbit Bar Association, much of what we proposed in the way of revision is receiving favorable consideration in a number of other States. This Code makes every lawyer actively concerned with the policing of this profession, and it makes every one of us responsible that the high standards of ethics of the legal profession shall be enforced. And indeed makes us guilty of a breach of ethics if we fail to enforce our own Code. If we know of violations and we do not take proper measures as lawyers, we ourselves, by this Code, subject ourselves to discipline. I think it is a great response by the American lawyer in the sometimes slanderous criticism that is leveled at this profession - would be, I think you can say that with this Code, we can put our money where our mouth is, and the people who criticize the legal profession will be hard pressed to sustain an argument in view of this Code. It is a splendid document. If you've read it, you know that it goes into a great many matters. That it deals in broad terms with the need of the American individual for legal services in order to realize the full scope of his citizenship. In our revisions, we have consistently taken steps which strengthen the role of the Supreme Court of the State of Idaho as the ultimate authority with respect to the practice of law here and with respect to the judicial system here. And our revisions take note of the importance and the

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1 unique role of the courts of general jurisdiction, the District
2 Courts, which are State Courts, and are in fact a cornerstone
3 of the judicial system of this nation. We have strengthened
4 the role of the court, of the Supreme Court, of the District
5 Court, and of the organized Bar of this State in this revision
6 so that anybody who practices law in this State is under the
7 discipline, is under the rules of this Code. There is no way
8 that anyone can practice law legally in Idaho under this
9 revision without being subject to all of the disciplines and
10 sanctions that this Code provides. There will be no lawyer
11 come here from some far place only to return to that far place
12 after making a mockery of our Courts or after unethically
13 treating the citizens of Idaho. By the same token, this Code
14 is strengthened in our revision so that no Idaho lawyer will
15 go to any other State and bring shame or embarrassment upon
16 this profession or upon - to a victim of unethical conduct with
17 impunity. We encounter cases in Idaho, wherein years ago, an
18 Idaho attorney committed conduct that seemed reprehensible
19 and this Bar was without jurisdiction to discipline him
20 adequately. The Bar in the State where he committed his
21 transgressions was also without authority. This Code solves
22 that problem, and furthermore, this Code makes the Idaho lawyer
23 who associates with counsel from elsewhere, responsible for
24 the ethics of that lawyer. In short, we have taken a strong
25 and very fine document and made it a stronger document. Now,

1 there are many individual revisions that could be discussed,
2 and I think indeed should have been discussed by those of us
3 concerned, for many hours. The Code itself could be discussed
4 in a multi-day seminar, and indeed I would hope that within
5 the year there will be a plan launched for the careful study,
6 in institute or seminar form of the Idaho State Bar, of this
7 Code. Because, gentlemen, I am satisfied from the order of
8 the Court that the Supreme Court of Idaho contemplates its
9 adoption subject to the directions, advice and concurrence of
10 this convention. These are very general terms, but as a
11 commissioner and as a person who has worked on this, I feel
12 that it is really a great day in our history when we adopt
13 this Code. Now, this package of bills is particularly
14 desirable in my view, because I'm frank in saying to you that
15 I think every one of these further amendments has given us a
16 substantially better Code, that my drafting and work-up in
17 conferences had brought to you. In this area of fee disputes,
18 I do not know of people in Idaho being victimized by lawyers,
19 but I know many people in Idaho who feel they are, and who
20 encounter the very frustrating fact that they lack a tribunal
21 where they can air this dispute. We as a Board of Commission-
22 ers, find ourselves frequently the recipient of a letter which
23 complains about the conduct of a lawyer, who has set a
24 particular fee. Under the Canons of Ethics, this is a civil
25 dispute and does not normally constitute a complaint which

1 would support the grievance hearing, a disciplinary proceeding
2 against the lawyer. Indeed, it should not. Nonetheless, we
3 are faced with the problem of public relations of this Bar,
4 where people feel they cannot go into the matter of the
5 propriety of an attorney's fee charge. This is becoming so
6 serious that legislators have given thought to the enactment
7 of statutes which might give jurisdiction in the District
8 Courts or perhaps in some other tribunal to fix attorneys'
9 fees. We have no desire to uphold a lawyer who charges
10 unconscionably high fees or who abuses his role or his public
11 trust. We think, however, that the great value of this Peer
12 Review is not likely to find that the lawyers are found to
13 have been wrong. We think more likely than not the individuals
14 who have a question will have a chance to get an answer. And
15 the public relations of this Bar will not be distorted and
16 damaged and prejudiced by the people who find they had nobody
17 that they can talk to and no place they can go to go into this
18 fee problem except by hiring another lawyer and getting into
19 another lawsuit. The Peer Review Committee which the court
20 has informally discussed with us, and has informally expressed
21 a positive attitude towards - with Peer Review, we will provide
22 I think, a very excellent program that not only solves the
23 problem that would be generated if a fee complaint were to mar
24 the man's history and record as a lawyer which I think would be
25 wrong, it will solve the problem of that becoming a matter of

1 an ethics dispute every time it comes up, and furthermore, I
2 think it goes to some of the cries of the public that we hear
3 in the no-fault insurance dialogues that are going on. It
4 goes to the need of a responsible review, which I am sure this
5 committee will provide. Now, the Martindale-Hubbell rating
6 matter, which is the subject of the final resolution to be
7 mentioned is also very important, and it has some things in
8 common with the fee dispute matter I just discussed, except in
9 the rating problem, it's the lawyers who feel frustrated.
10 Many lawyers in Idaho are convinced that they have been
11 improperly rated and unfairly treated. There is at least the
12 appearance of a system which depends more upon how big a car
13 you drive or how many books you buy than anything else.
14 Martindale-Hubbell will, I am sure, say that's not true, and
15 I'll assume for the purposes of this discussion that it isn't
16 true. That in fact, it is a good system and it is honorable.
17 But we are left with the reality that lawyers who don't think
18 they have had a fair evaluation or fair review, have no place
19 to go. The A.B.A. has sanctioned this publication and walked
20 away and ignored it. This resolution in my judgment is a very
21 fine one when it directs the A.B.A. to take a strong stand
22 and take a responsible role with regard to these ratings and
23 to provide the attorney who feels that he has been wrongly
24 rated, some means of an intelligent consideration or reconsid-
25 eration of what that book says about him. I feel that Idaho

1 lawyers must encourage and must protect legal ethical systems
2 of proper rating. We are a remote state of few people and
3 much of the substantial litigation and legal representation
4 in Idaho comes here from out of state. People out of Idaho
5 must have a way of reassuring themselves that the lawyer that
6 they select here is a competent, ethical man. That he has
7 adequate financial responsibility to handle the particular
8 piece of business that they wish to be sent here. If they
9 cannot find ratings that are reliable, they will have no
10 alternative except to go to an urban center, retain a substan-
11 tial and perhaps famous large law firm which would in turn
12 come here and conduct the practice. That is not necessary.
13 It is not good for the client. He is going to get his best
14 representation here at the hand of a lawyer who is licensed
15 here who is absolutely competent. So we must protect the
16 rating systems, but it must be a good system that is defensible
17 And I think that this resolution is another giant step forward
18 in this important area. Now, Mr. Chairman, I have been very
19 vague and very general. I would say to you that one of the
20 advantages of having a meeting today, Thursday, before we vote
21 Saturday, is that it gives everybody ample opportunity to
22 consider and discuss these resolutions. I will be happy to
23 answer any questions here. I will also be pleased to make
24 myself available for any discussions that anybody may wish to
25 carry on between now and Saturday. I will be here.

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MR. BENOTT: Mr. Chairman.

RESOLUTIONS COMMITTEE CHAIRMAN: Yes, sir.

MR. BENOTT: Ed Benoit, Twin Falls. First of all, I sat

in the house of delegates where they debated and discussed this Code of Professional Responsibility, and hours were put in by Ed Wright and his committee, and they came up with a fine document. The commissioners have seen fit to redraft and change a few portions of it to fit the needs of the State of Idaho, and I understand that as a result of the work in Idaho, the States of Wyoming and Montana are adopting similar changes. And I note from personal experience how well paid a Bar commissioner is.

(Laughter)

And particularly the man who spent so many hours drafting

these vital changes to make the Code applicable here in Idaho, and I would like to place on record a motion that we here commend and thank Gene Thomas for the tremendous amount of work and time that he has devoted to the revision of this Code. MR. THOMAS: Thank you. I appreciate that.

E. B. SMITH: Second the motion.

RESOLUTIONS COMMITTEE CHAIRMAN: All in order and

seconded, and I think we can call for the question without further deliberation on that. All in favor?

ASSEMBLY: Aye.

RESOLUTIONS COMMITTEE CHAIRMAN: Opposed?

(NO RESPONSE)

MR. BENOIT: One more thing, Reed.

RESOLUTIONS COMMITTEE CHAIRMAN: Yes, sir.

MR. BENOIT: As I would understand that Martindale-

Hubbell situation, it is that you are requesting that Blaine

Anderson and I ask for a hearing before the law list committee

of the A.B.A. here at this meeting in New York and suggest

that a study be made of some review system where a lawyer

could ask for a review of his rating. Is that summarizing

what you wish us to do?

RESOLUTIONS COMMITTEE CHAIRMAN: The resolution provides

Ed, that you fellows be authorized and requested to seek an

investigation and study of the practices and standards used by

the law list committee in rating lawyers for ethical standards

and so forth.

MR. BENOIT: Well, as a practical matter, I would say

this. That Blaine and I, at New York, can have probably an

initial meeting with this committee, and knowing how slow some

of those A.B.A. committees work, it would probably be the mid-

winter's meeting before we could really get a definite commit-

ment with them. Following your instructions, I assure you

Blaine and I will go to New York and follow your directions.

RESOLUTIONS COMMITTEE CHAIRMAN: Thank you very much.

With all of the accolades you've been given, Mr. Thomas, which

I am sure are well deserved, I must of necessity take dissension

of the fact that you indicated that everybody was ill-disposed

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this morning. I don't think that's quite true. I went over
to take a tennis lesson about eight o'clock and the tennis pro
came out and he threw three balls, and I missed every one of
them. He said, "Were you out last night?" And I said, "Not
completely."
(EVERYONE LAUGHING)
And he advised me to take two aspirins and forget it.
(LAUGHTER)
In any event, we're about due for a coffee break. I realize
that what we've done here in this Code is a lengthy document.
Lots of need for thought as we have discussed, but I suggest
to you that we could talk about it from now till Monday. And
therefore, I think we're about ready here. If we could take a
break here at this time, Reed. I'll turn this back to you.
PRESIDENT MILLER: I would like to do one thing here
this morning. We have made a little investigation. This is
the forty-sixth consecutive year Judge E. B. Smith has regis-
tered with the Idaho State Bar. Judge Smith, will you stand,
please.
(APPLAUSE BY ASSEMBLY)
We have great respect for you, Judge. We are real proud
of you as being a part of our association.
Let's take about a fifteen minute coffee break and come
back and have some more discussions.
(A FIFTEEN MINUTE COFFEE BREAK WAS TAKEN)

1 PRESIDENT MILLER: The meeting will come to order again.
2 At this time, I would like to introduce Ray Kuhn.
3 RAY KUHN: Mr. President, Commissioners and members of
4 the Idaho Bar. It's always a real great pleasure for me to
5 have five minutes of your time. First, to thank the members
6 for the real fine participation which we are receiving on the
7 pre-insurance programs which are endorsed by the Bar. It's
8 really gratifying to find that the disability program has
9 doubled in participation since one year ago, and I think it
10 speaks for itself that it's a worthwhile program, and we do
11 appreciate the fine, fine cooperation and participation. My
12 purpose, of course, in being here, is to perform a very, very
13 pleasant presentation which we have done for a number of years.
14 To present to your outgoing president a little token of our
15 esteem for him as a man, but more or less to indicate and
16 signify that it's a real fine job that he has done throughout
17 the year. And President Miller, I trust that you will place
18 this in your office, hang it on the wall, to constantly remind
19 you of all the trials and tribulations and problems that you
20 encountered during the year. I know that we can justly say
21 that you have done a real good job.
22 (APPLAUSE BY ASSEMBLY)
23 PRESIDENT MILLER: Thank you, Ray, very much. I can
24 only make this comment. I think that you have to be a Bar
25 Commissioner, have been a President of the Idaho State Bar, and

then you clearly understand Churchill's concept of blood, sweat
 and tears.

(LAUGHTER)

RESOLUTIONS COMMITTEE CHAIRMAN: Gentlemen, we reported
 out that we feel - and I think we better all - Wayne asked to
 make a comment with regard to that. Wayne is a member of the
 resolution committee, and I call upon you now at this time,
 Wayne.

WAYNE FULLER: Yesterday, at the resolution committee
 meeting, I raised some problems that I would like to call to
 the attention of the association, not for the purpose of
 having an amendment proposed at this time, but perhaps for
 further study, so that at some future date, there might be an
 amendment. What I'm referring to is in Section DR2-103(D),
 where it says that a lawyer may cooperate in a dignified manner
 with the legal service activities of any of the following,
 providing that his independent professional judgment is
 exercised in behalf of his client without interference or
 control by any organization or other person, and then it lists
 the legal aid office, military legal assistance office or public
 defender office, operated, sponsored or approved by the duly
 constituted District Bar Association of the geographical area
 in which the Association exists. I see three small problems.
 One is that a public defender's office is at the present time
 authorized by State statutes, and if the Bar Association -

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1 local Bar Association - for any reason got aggravated at the
2 public defender and didn't approve, or disapproved of their
3 organization or their set-up, that you would have a situation
4 there where their activities would be authorized by State
5 statutes, but which would be - at least, this is my interpre-
6 tation, if it is correct - would be subject to discipline
7 because they were cooperating with the public defender office
8 that's not approved by the local District Bar. The same thing
9 could happen with regard to the legal aid office, which under
10 a controversial case, where they would have a controversial
11 personality in their office, where the District Bar, showing
12 their disapproval, started to disapprove their activities, and
13 this could raise a real interesting problem with regard to the
14 client's position, because if, for example, the legal aid
15 office, because of disapproval - the lawyer who is representing
16 the client or the public defender for that matter, who is
17 representing the client is perhaps going to have to tell the
18 client that he may be subject to discipline if he continues
19 to represent him. The A.B.A. proposal, which is quite a bit
20 broader, allows a legal aid office or public defender's office,
21 which is operated by a duly accredited - or sponsored by a
22 duly accredited law school, or operated or sponsored by a bona
23 fide non-profit community organization or by a governmental
24 agency. I'm not proposing that the A.B.A. proposal be the one
25 that be adopted or even considered for future study, but I do

1 think that there are some problems that need to be brought up.
2 I don't say this because I feel that the local District Bar
3 can't be trusted. As a matter of fact, I think the local
4 District Bar will, by and large, exercise good judgment and
5 will not do anything to create a problem in this area, but if
6 they did, enforcement of this particular provision, it seems
7 to me would be at best a rather difficult kind of enforcement,
8 because the only thing that would - the only thing that would
9 be changed from the situation where you had an approved public
10 defender, legal aid office or military legal assistance office,
11 would be just the disapproval of the District Bar. Their
12 activities wouldn't be any different. It would be just the
13 fact that the District Bar would be disapproving them. Anyway,
14 as I say, I don't propose this for any kind of amendment now,
15 but I just want to call it to the attention of the Bar, so
16 that if at some future time there needs to be another look at
17 it, why it can then be looked at. Thank you very much.
18 RESOLUTIONS COMMITTEE CHAIRMAN: Thank you. I might say,
19 gentlemen, in regard to that, this was discussed at length in
20 the resolution committee meeting, and we felt that governmental
21 agencies and so forth would first seek the approval of the
22 Idaho State Bar in the first instance, and then would, if that
23 hadn't been obtained and the local District Bar approval
24 having been obtained, the matter would be in progress at that
25 time, and it was the consensus of the resolution committee that

1	that being the case that perhaps the local District Bar
2	Association would be in fact, more cognizant of the operation
3	of the agency. I say this resolution in the package there was
4	moved by the Seventh District, seconded by the Fourth District,
5	and was passed at the meeting with the dissent on that one
6	point.
7	That brings me to Resolution No. 10 of the resolution
8	committee. This resolution without the preamble states that
9	(RESOLUTION 10 READ)
10	This resolution was moved by the Fifth District, seconded by
11	the Clearwater District and was passed by unanimous vote. It
12	authorizes a study and recommendation only. Does anybody have
13	any comment with regard to this resolution?
14	(NO RESPONSE)
15	With regard to the next item of business concerning
16	legal interns. There have been some changes made, gentlemen,
17	in what you might have received. This has to do with legal
18	interns which is the subject matter of, to be a portion of the
19	program, I believe, tomorrow. It says, "Legal Interns.
20	Admission to a Limited Practice as a Legal Intern." How many
21	are not familiar with this resolution? - How many have not seen
22	read, and/or digested and considered it? It's about five
23	pages long. Would there be any necessity or desire on the part
24	of anyone that this be read in full?
25	JESS HAWLEY, JR.: Could you summarize it for us?

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RESOLUTIONS COMMITTEE CHAIRMAN: I couldn't, but I bet
Mr. Miller could, Mr. Hawley. And I bet he'd be happy to do
so, and I now call upon him for that chore.

PRESIDENT MILLER: Thank you, Mr. Chairman. We have
in the last year made a study of other States, particularly in
regard to a legal intern program. We have patterned our pro-
gram basically after the State of Washington after counseling
with Dean Menard at the University of Idaho Law School, and
after consultation with the Supreme Court. I want to be
honest. One of the big problems we ran into was the question
of malpractice insurance. This has caused a concern in other
States, and particularly in other States where there are not a
license or a permit concept of legal internship. So therefore,
we have adopted this proposal that there be issued a qualified
permit with the Supreme Court of the State of Idaho to the
intern, and that it be called a qualified permit. The qualifi-
cations are that the individual be attending a law school -
not Idaho only - but a law school. That he be certified by
the Dean or some authority of that law school to participate
in this program. Now, we have certain restrictions upon what
he can do and what he may participate in. The question of his
signing pleadings is of great concern to us. Some States
permit it. Some States do not permit it. The question of
service of papers. Response of pleadings was a big concern.
We have, with Dean Menard's agreement, gone to the point that

1 that he may sign briefs filed with the Courts, only - as a
 2 legal intern. We have restricted his participation before the
 3 District Court. He cannot appear before the District Court
 4 without the presence of the supervising attorney. He cannot
 5 appear before an attorney magistrate in a divorce case without
 6 a supervising attorney. Now, he can appear before the attorney
 7 magistrate or lay magistrate in matters without the supervising
 8 attorney upon the occurrence of certain conditions:
 9 (1) That the supervising attorney will file a certifi-
 10 cate with that Court to the effect that the intern has partici-
 11 pated in three like matters under the control of the super-
 12 vising attorney.
 13 (2) That the attorney will certify that the intern is
 14 prepared and ready to proceed.
 15 (3) The client has filed his written permission and
 16 consent that the intern will represent him in this proceeding.
 17 (4) That the acts of the intern are solely the respon-
 18 sibility of the supervising attorney.
 19 These four conditions - Let me say this. The original
 20 rule you read in the Advocate provided that the District Court
 21 judges would first authorize by a certificate, this authority.
 22 We talked to certain judges. At first, this was their recom-
 23 mendation. Later, we felt that the responsibility should not
 24 be with the Court. It should be with the attorney who is super-
 25 vising that intern to see that these things are carried forth,

1 and that he is qualified and that he is able to proceed. Now,
 2 we recognize that there are areas where there should be no
 3 limitation to the number of interns under the control of any
 4 particular group. We have particularly provided - Dean Menard
 5 and I have worked at long length on this - that the Prosecuting
 6 Attorney's office, City Attorney's office, Public Defender's
 7 office, Legal Aid office have more than one intern in their
 8 organization. We restrict, however, other attorneys to one
 9 intern only. Is there any question about that?
 10 WAYNE KIDWELL: Per attorney?
 11 PRESIDENT MILLER: Per attorney. We have fully provided
 12 in the rules a change that was not published that no person
 13 can qualify in this capacity as a supervising attorney unless
 14 he shall have practiced law in the State of Idaho for five
 15 years continuously. This rule came about by two or three
 16 reasons:
 17 (1) This used to be the old rule, if you recall, on
 18 office study.
 19 (2) The second thing that was brought to our attention
 20 was a concern over law school friendships carrying over into
 21 the practice of law, that unless you have some qualification
 22 restrictions here, we can see all kinds of problems developing
 23 in regard to friendship associations and getting away from the
 24 true intent of this program to help these young people and get
 25 them started in a good intern program. We have met with Dean

1 Menard. He is happy with this rule. Is that correct, Dean?
 2 The commissioners are happy to present it to you. We have met
 3 with the Supreme Court. They are in favor of the rule. And
 4 we sincerely urge you Saturday morning to approve this thing.
 5 Are there any other questions you might have?
 6 MR. JAMES MAY: I've just been noting some of the clauses
 7 here in the Advocate. The supervising attorney may not be
 8 present in the courtroom during the -
 9 PRESIDENT MILLER: That's been changed to "need not be
 10 present."
 11 MR. MAY: Oh. Okay.
 12 PRESIDENT MILLER: "Need not be present." - Yes, Alden.
 13 MR. HULL: Alden Hull from Wallace. Gene, I talked to a
 14 number of the law students, including ones attending at the
 15 University now, and they feel that the five-year qualification
 16 to be a supervisory attorney is a little - works a hardship,
 17 because so many of the attorneys in Pullman, Colfax and Carson,
 18 where these interns are now working, have only been out of law
 19 school two or three years themselves. And the O.E.O. and other
 20 such places.
 21 PRESIDENT MILLER: Now, they're not covered. O.E.O.,
 22 they're not involved here. The five-year limitation does not
 23 apply to Prosecuting Attorneys, City Attorneys, Legal Aid
 24 Societies, and things of this nature, Alden.
 25 MR. HULL: I see. I didn't understand.

1 PRESIDENT MILLER: That's been changed. Yes, Dean?
2 DEAN MENARD: We have been very interested in this for
3 a number of reasons. We have felt for a long time legal
4 education is deficient. We train a man entirely in a class-
5 room context. If he is fortunate enough to pass the tortures
6 which the commissioners inflict upon him, at the end of three
7 years, he can then step into the courtroom and do anything any
8 of the rest of us can do, providing he has a client ready,
9 willing and able to let him represent him. We look upon this,
10 and the President did not mention it - It is restricted to
11 third-year law students - to students who have finished two
12 full years of their education. We look upon this limited or
13 qualified permit as a transitional, educational device in the
14 third year of law school. We have worked with the Washington
15 rule for one year. We have about fifteen students with limited
16 permits from the State of Washington, all of this past year,
17 operating in Whitman County, down at Walla Walla, and - I don't
18 believe we have anyone in Spokane, by a gentlemen's agreement
19 leaving that field to Gonzaga just as they leave Whitman and
20 the southeast corner of the State to us. Our experience has
21 been outstanding at Whitman. Every judge before whom they
22 have appeared, every attorney who has supervised their work,
23 every student has been highly gratified by the results achieved,
24 by an additional depth to classroom discussion in the law
25 school. And indeed, under certain circumstances, we are not

1 giving a limit to the amount of academic credit for that work,
2 but not to exceed about twenty-five - or twenty percent of the
3 third-year work. It has been a complete and outstanding success.
4 Thirty-six other States as at the latest count now permit
5 this. No State has changed or rescinded this rule since they
6 adopted it, although they do vary. And with the commissioners,
7 we went over the rules of the thirty States which were avail-
8 able when the study was launched. I have not gotten the rules
9 on all of the six who have moved this year. I simply second
10 what Alden says. The students are most interested in this. We
11 are interested in it from an educational point of view. We
12 believe that the supervisory safeguards which the commissioners
13 have insisted upon, and rightly so, are quite adequate. The
14 poor fellow really has a minimum of five people looking over
15 his shoulder every time he moves. We have to assign a super-
16 visor from the law school, and we do. He has his attorney
17 supervisor who is the final word on any point, as he must be,
18 because he has the responsibility. He has the State Bar. He
19 has the Supreme Court. And he has the Judge before whom he's
20 appearing. I really feel somewhat sorry for him. (Smiling)
21 (LAUGHTER)
22 Because he's in the spotlight of five groups that converge on
23 him. I simply commend it to you and say that I appreciate the
24 patience of the commissioners in working with us for the last
25 year in working out this rule.

1 PRESIDENT MILLER: Mr. Thomas?

2 MR. THOMAS: Mr. Chairman and Dean Menard, when this

3 rule becomes the law of our State, which I think it will

4 shortly, what will be the plan of the law school with regard
5 to these youngsters having a chance to get down into the

6 southern part of the State? Would it be during their summer
7 vacations, or do you have any plans in that direction?

8 DEAN MENARD: Yes. We have two plans on that. We have

9 immediate plans for their use during the summer. We have had
10 a number of attorneys say to us they would take one of these

11 would-be attorneys in their office during the summer if he
12 could do this sort of thing for him, and not otherwise.

13 Secondly, we are exploring a program - In fact, we have a

14 request pending - for a foundation grant, whereby he might be
15 able to get down one day a week, and this grant would pay his

16 plane fare. That, like most grants, probably won't be accomp-
17 lished at the ratio of acceptance on these proposals. There's

18 usually about one in five, but we are working toward a program
19 of that sort.

20 MR. THOMAS: Dean Menard, is there any chance that a

21 senior student might have a six-week period during his senior
22 year, when he could actually leave the school, and engage in

23 the full-time pursuit of this program?

24 DEAN MENARD: Yes. Probably not this year, but there's

25 a definite possibility to that. It will require restructuring

1 of the curriculum, but I see nothing but time standing in the
2 way of such a restructuring. It is already done in the College
3 of Education of the University where they offer intensive nine-
4 week courses in an effort to free their practice teachers for
5 the other nine weeks. One law school is exploring this now -
6 Arizona State at Tempe - and I think some of the rest of us
7 have been simply waiting for the outcome of Arizona State's
8 experiment in this field. But I think it's definitely in the
9 wings.
10 RESOLUTIONS COMMITTEE CHAIRMAN: This discussion brings
11 to mind that in 1950 when the commissioners and the State
12 Supreme Court made the mistake and allowed me to enter the
13 practice of this profession, my sage father was inclined to
14 observe at the time that I perhaps then knew more law than I
15 was ever going to know, but I didn't know a damn thing how to
16 work with it. And by the time I found out how to work with it,
17 I had forgotten half of it, so maybe this will correct that
18 deficiency in our system.
19 In any event, this resolution was moved by the Clearwater
20 Bar and seconded by the Third District and passed unanimously.
21 It will be for your consideration. I have one more resolution.
22 I won't bother to read the courtesy resolutions, which thank,
23 of course, our speakers and sponsors for the various courtesies
24 that we engaged in, and it leaves us with the last one, which
25 was a proposal from the Fourth District, and which was published

1 by Mr. Jim Lynch of the Boise Bar, and it involves Rule 185
2 of the Rules of the Supreme Court and Board of Commissioners.
3 Now, I can read this to you. It is about three pages, if you
4 would so desire.
5 MR. THOMAS: Mr. Chairman, I move that we dispense with
6 the reading of the resolution.
7 ALDEN HULL: I second it.
8 RESOLUTIONS COMMITTEE CHAIRMAN: It has been moved and
9 seconded that the reading of this resolution be dispensed with.
10 All in favor, say aye.
11 (UNANIMOUS RESPONSE BY ASSEMBLY)
12 Opposed?
13 (NO RESPONSE)
14 The motion is carried. This resolution was moved by the
15 Sixth District, seconded by the Fifth District. The motion
16 was made by the Sixth District and seconded by the Fifth
17 District that the resolution be not passed by the resolution
18 committee, and that we then supplement and come up with a reso-
19 lution which is not as yet prepared which will be presented
20 Saturday morning from the resolution committee, who will meet
21 here in session tomorrow morning at 8:30, at which time the
22 resolution will be considered and discussed and will be brought
23 to the floor on Saturday morning. This resolution will cover
24 several areas, including some of the import of the resolution
25 which we recommended be not passed. The resolution, I will

1 advise you in general terms at this time, that we will submit
2 for your consideration Saturday morning, will involve the fact
3 that we need to adopt a policy with regard to legislation, its
4 affect on the Bar to disseminate information to acquaint our
5 membership in a whole, to receive a rapport between the
6 commission and the membership, to advise the legislators with
7 regard to the Bar's view on various matters that may in fact,
8 come up. We are going to urge that the commission undertake to
9 determine a system whereby the Bar Presidents of the Districts
10 serving in the winter for the purpose of the annual meeting
11 should continue as local Bar delegates at ensuing annual
12 meetings to establish a little bit of continuity between what
13 is done in January and what we're acting on in June. In this
14 regard, the resolution committee that met yesterday to
15 consider all of these resolutions, there was only one man
16 present at the midwinter meeting. Now, this is due in fact,
17 because the Bar Associations have their elections and so forth
18 in the intervening period. And it is felt that a good deal of
19 man hours and talent is lost in the fact that you have no
20 communication back from the midwinter meetings to keep your
21 various Districts informed, to assert their positions adequately
22 so that we come to the meeting just prior to our annual meeting,
23 and we have to go over much of the ground that has already been
24 plowed and explored. We feel that this is a waste of time and
25 talent, and it does not serve the best interests of the members.

1 commission. They would much prefer that this be changed in
2 some manner. I hope that we can undertake a resolution that
3 will get something done in this area. We also feel that various
4 type items of legislation, particularly the probability of
5 no-fault insurance and other matters pertaining to insurance,
6 need our best effort and that the committee should be formed
7 of the trial lawyers, plaintiffs and defendants, to determine
8 what legislation is being proposed, whether in fact this is
9 necessary and acceptable, and what, if any, changes should be
10 recommended to the legislature, or by way of amendment. We
11 desire to have the commission be in authority to act on behalf
12 of and with the authority of the Bar membership as a whole so
13 that a more or less united front can be made at a time when
14 matters that vitally affect our practice are being considered
15 by the legislators. Mr. President -

16 MR. CHALFANT: Mr. Chairman?

17 RESOLUTIONS COMMITTEE CHAIRMAN: Yes, Frank?

18 MR. CHALFANT: Frank Chalfant, Jr., of Boise. I would
19 like to say a word on this resolution. As the delegate here
20 to the resolutions committee from the Fourth District Bar, I
21 am directed to promote this resolution. Jim Lynch has been
22 indicated as the author of it. He actually prepared an
23 explanation of his proposal entitled, "One Foot in the Tar Pit",
24 which was to have been published in the Advocate, but for some
25 reason it didn't make the publication, and maybe it will be

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at some future time. But a copy of that is available, if anybody would be interested in reading it. I won't attempt to read it here now. I think I would be ridden out of town on a rail if I did.

(LAUGHTER)

It's rather lengthy, but anyone who is really interested in this problem of trying to get a system whereby the consensus and opinion of the members of the Bar are brought into focus and put in the hands of the commissioners to present to the legislature in a more timely fashion than the summer meeting before the legislature meets, should look at this article and should really consider this problem, because the fact is, as has been noted, times are changing so fast. We have had so much going on so quickly now that we must be in a position ourselves to react more quickly ourselves, and I think Jim's intent was to go one step further and really to do away with the necessity of the annual business meeting as such. And that the time and expense that is involved in this kind of a meeting cannot - he questions the sufficiency of that, the effectiveness of it. Whether that expense can really be justified, considering the fact of the secretary's time and the commissioner's time, a great deal of it is spent in promoting this annual meeting. So if anyone's interested in looking at this, I'll try to make it available.

RESOLUTIONS COMMITTEE CHAIRMAN: Thank you, Frank. Again,

1 as I say, this matter was really discussed at length yesterday
 2 afternoon by the resolutions committee, and I think we're all
 3 aware that things are moving much faster, but I think we are
 4 equally aware that a program or revision of our particular
 5 structure in our operation should be pursued with the idea that
 6 it works as far as the local Districts. It works as far as the
 7 commission, and it works as far as having an informed member-
 8 ship, individually. I will admit at this time that I seriously
 9 doubt - in fact, I know - that there could be no hope that we
 10 would come up with an over-all recommendation in this regard to
 11 take care of the problems of communications and dissemination
 12 of information, but certainly it will be our work product as of
 13 8:30 in the morning, to see if we can't get something started,
 14 whereby the commissioners can work this thing out to the point
 15 that we eliminate any criticism that was a part of the resolu-
 16 tion proposed. Now, as far as I know, that - there are -
 17 MR. DALEY: Excuse me.
 18 RESOLUTIONS COMMITTEE CHAIRMAN: Yes.
 19 MR. DALEY: Tim Daley from Boise. I was present at the
 20 Boise Bar Association meeting where the Jim Lynch proposal was
 21 presented. Many of us felt that it was long overdue. That
 22 there had been at least one study and maybe more authorized
 23 in the past to take a look at the way the State Bar operates
 24 and nothing apparently ever comes from it. The import of the
 25 Lynch proposal is to convert the annual meeting into a time

1 slot for intensive continuing legal education seminar. That the
2 business of the Bar would be transacted at two meetings of the
3 House of Delegates. One meeting would be an introductory
4 meeting so that the issues can be presented to the delegates.
5 They come back to the local Bar Associations for action. In
6 other words, get back to the lawyer without an involvement in
7 the business of the Bar, without having a precondition of
8 \$200.00 or \$300.00 to spend at an annual meeting. After this
9 initial meeting which would occur, I believe in October, the
10 delegates to the House of Delegates would be instructed by the
11 local Bar Associations, and return in December for a second
12 meeting. This is just prior to the time the legislature meets.
13 It's a very opportune time for the Bar to express itself on
14 pending legislation. I frankly would be opposed to any
15 modification of that system that might be proposed. I think
16 the existing resolution proposed by Jim Lynch is outstanding
17 and embodies a lot of thought and experience that he had as
18 Executive Secretary of this Bar. It springs from a love that
19 he has of the profession and the direction he feels that it's
20 going, which is not up. And I think the Lynch resolution
21 ought to be seriously considered by the members of this annual
22 meeting without substantial modification.

23 BOB HUNTLEY: Mr. Chairman?

24 RESOLUTIONS COMMITTEE CHAIRMAN: Yes, sir. Bob?

25 MR. HUNTLEY: I would like to ask a question of the

1 speaker. Some of us guys out in the provinces read into this
2 thing that it would give everybody a fair vote, because it
3 goes on a one man, one vote concept, and if in our provincial-
4 ism, we wanted to stick to our unfair rights that we now have,
5 could the basic concepts of the Lynch proposal still work even
6 under the unfair ordinances that we now have?
7 MR. DALEY: My impression was that the voting structure
8 would not be changed - that we now operate under. In other
9 words, the unit rule would still operate on those areas where
10 the unit rule operates. And the one man, one vote rule would
11 operate where it now operates. The Lynch proposal - the word-
12 ing may be incorrect - but it was not intended to change the
13 voting structure.
14 MR. HUNTLEY: I thank you for that explanation, because
15 I think there's some real good ideas here, and I think a lot
16 of us have been shooting the thing down, because we think we'll
17 lose some of our power whether we deserve it or not.
18 RESOLUTIONS COMMITTEE CHAIRMAN: Let me explain -
19 MR. HUNTLEY: And I think it should be clarified and
20 brought right out on the floor and discussed.
21 RESOLUTIONS COMMITTEE CHAIRMAN: Mr. Huntley, may I
22 explain this. Last year, there was reported to this annual
23 meeting a study relative to our internal rules. At that time,
24 Rule 185 had been studied by Vern Kidwell, Jerry Smith and
25 Hal Ryan. The question of a delegate system had been clearly

1 explored. They came back and reported that there was in fact
 2 under the unit rule, one man, one vote. Your President comes
 3 here and he votes the strength of his District so to speak, and
 4 therefore, he votes one man or each man is represented here at
 5 the annual meeting. It was their recommendation that we not
 6 change and go to a delegate system last year, so in this respect,
 7 there has been a study made for two years of a delegate system.
 8 The recommendation last year was that we not change that, and
 9 I feel that our minutes from our previous meetings do not reflect
 10 a report in this regard. I do feel that Jim Lynch's proposal
 11 does merit study. It does merit further inquiry. Somewhere
 12 along the line there's a happy medium - a moderation somewhere.
 13 And I feel that the action taken with regard to a further study
 14 can only serve to propel this thing to a final proper answer
 15 in the future. And I think this is what you're looking for,
 16 Tim, as are all of us who are here.
 17 Is there anything else to come before the meeting here
 18 today?
 19 EUGENE THOMAS: Mr. Chairman, before we leave -
 20 RESOLUTIONS COMMITTEE CHAIRMAN: Yes.
 21 MR. THOMAS: Mr. Chairman, gentlemen of the convention,
 22 I would like to comment on this most recent discussion of Jim
 23 Lynch's proposal, as a member of the Bar, in the interest and
 24 in the hope of avoiding any misunderstanding in the other
 25 Districts as to what Jim's purpose was - or is. I'm satisfied

1 that it would be unfair to him for any of you from other Dis-
2 tricts to feel that he intended in any way a power grab or an
3 unreasonable or undue emphasis upon either the larger towns or
4 even Boise as the site of this meeting. I say this to you,
5 because I don't want this convention to accept this discussion
6 as an indication that there is some reason to be less amiable
7 and congenial because of this proposal. I say it as one who
8 is opposed to the proposal. I personally think that it's a
9 bad resolution and I personally hope this convention does not
10 adopt it, but it's a proposal that's made in good faith and in
11 good will. And I do want to stress that. And it's not a
12 sectionalism type of thing. Furthermore, it is true that one of
13 the fine things in the last two years in the Idaho State Bar
14 has been the development of an important midwinter meeting
15 where the Bar Presidents have come in and brought a lot of
16 insight and input to the Bar Commission and to the Legislature,
17 and a concept that will build that type of rapport and
18 strengthen that midyear program is good, and much of that is to
19 be found that is good in Jim's proposal. And finally, I would
20 like to comment that several of the most loyal and outstanding
21 members of our Bar have in fact - not once, but twice - done a
22 great deal of work on this topic. Our problem does not result
23 from a default. Indeed, we're indebted to Vern Kidwell and
24 Jerry Smith, Hal Ryan and others who worked with them on
25 committees, and put a lot of study and a lot of interest in

1 recent years in this matter. And I think it would be wrong to
2 let it be suggested - and I think Tim remarked that they had
3 not done a good job or that we don't appreciate their efforts.
4 The fact is they came forward, and they decided we shouldn't
5 change it. At the time, they didn't have a change they wanted
6 to recommend to us. I think more effort needs to be made to
7 develop constant improvements in all of our rules, but it would
8 be a shame to go away from this meeting with the feeling, as
9 I think some might be, that there is anything about this pro-
10 posal that had any sectionalism quality to it. Jim Lynch had
11 no such feeling; I assure you, and the Boise Bar had no such
12 feeling. Finally, on that point, the day that was enacted by
13 the Boise Bar, we were down to about the last thirty guys in
14 the room. We had been clear through the Code of Professional
15 Responsibility, and five or six other resolutions. People had
16 to get back to their offices. When Jim stood up with his inch
17 thick motion and speech, another fifteen just had to leave.
18 They didn't have time to stay. It was the last item of business
19 we had, and we did not get a chance, nor did Jim, to give the
20 thing a lot of thought and a lot of dissemination around the
21 Bar. Some seventeen or eighteen of us actually voted on the
22 resolution. I don't say that to take away from the resolution.
23 I think it enjoyed a serious proposal by the Boise Bar. But
24 I do want you to know that it was passed under those circum-
25 stances, and I think that everybody in Boise is going to be

1 very happy if the matter receives further consideration and

2 study and effort. Thank you, Mr. Chairman.

3 MR. DALEY: Mr. Chairman?

4 RESOLUTIONS COMMITTEE CHAIRMAN: Yes.

5 MR. DALEY: Going back to the Boise Bar Association

6 meeting, there was a motion made to postpone consideration of

7 this matter because of the withdrawal of some members for

8 other business. This motion was not soundly defeated, because

9 there were those who were interested enough to stay at that

10 meeting, that were extremely interested in seeing that this be

11 carried to the State Bar Association - the State Bar annual

12 meeting - rather than postpone for another year. In fact, one

13 or two people in debate on the subject made the statement that

14 it's about time lawyers got off of dead center and did something.

15 FRANK CHALFANT: Mr. Chairman?

16 RESOLUTIONS COMMITTEE CHAIRMAN: Yes, Frank.

17 FRANK CHALFANT, JR.: In regard to Gene's comment on the

18 number of the members of the Boise Bar that voted on this. I

19 think that that is a question that goes to the very essence of

20 this matter. That is to say, here we are at the Idaho State

21 Bar meeting - annual meeting - with only a small percentage

22 of the members of the annual meeting present, and this is the

23 purpose of the Lynch amendment is to try to devise a system

24 that we really get a better consensus of all members of the

25 Bar. In other words, as lawyers, we know that the procedures

of Government must be responsive to the will of the people,
 and that these procedures and the legitimization of the conduct
 of our officers, whether it be the President of the United
 States or on down, depends upon some correlation with the will
 of the members that are involved, and this, of course - the
 resolution that came here - a legitimate resolution - and the
 resolution committee recognized that and is passing it on to
 the floor for consideration by the members here. But it just
 illustrates the very problem that you're trying to solve which
 is to legitimize and get a more responsive and a more timely
 method of deciding these most important questions so that our
 Executive Committee, the Commissioners and the Bar Presidents
 are not acting totally uninstructed. In other words, they
 represent the members of the Bar, and they must have some dis-
 cretion without a doubt, in case of emergencies, but on general
 broad problems - big problems that do affect the Bar as we've
 seen happen in the last Legislature, they do need some method
 of getting the real - as far as possible - the consensus of
 the members of the Bar. And that's what this is designed to do
 RESOLUTIONS COMMITTEE CHAIRMAN: Thank you, Frank. Now,
 gentlemen, that concludes the report of the resolutions
 committee, and, Mr. President, I would urge the adoption of
 this report and the adoption of the resolutions which we have
 reported on favorably.

MR. BENOIT: Is that a motion?

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1 RESOLUTIONS COMMITTEE CHAIRMAN: Yes.

2 PRESIDENT MILLER: I ask for a motion. That there be a

3 motion made from the floor adopting the resolutions committee

4 report.

5 WAYNE KIDWELL: Pardon me. Point of order. He didn't

6 ask that this be - that we adopt those resolutions?

7 PRESIDENT MILLER: No. Just the report, Wayne. Just

8 the report.

9 MR. HAWLEY: I would so move.

10 MR. HUNTLEY: I second it.

11 PRESIDENT MILLER: All right. Ready for the question?

12 (UNIDENTIFIED): Question.

13 PRESIDENT MILLER: All those in favor, say Aye.

14 MEMBERS OF ASSEMBLY: Aye.

15 PRESIDENT MILLER: Those opposed?

16 (NO RESPONSE)

17 PRESIDENT MILLER: Mr. Kull, do you have an announcement

18 to make before we recess?

19 MR. KULL: Gentlemen, the breakfast that was scheduled

20 in the Lodge Dining Room this morning was somewhat less than

21 successful. I assume that it was because there was a misunder-

22 standing, I think, about the use of the tickets and everything.

23 Therefore, I've cleared it so you can use the Duchin room any

24 time you want to for your meals that are outside of these

25 scheduled events. I would urge all of you to attend the

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1 luncheon today. Bill Kurtis, a lawyer and a newsman, who has

2 covered many of the leading criminal trials in the country,

3 and I think has some very interesting thoughts to impart, and

4 I think you will really enjoy hearing him. This afternoon

5 is the Legislative Committee - or the Legislative meeting.

6 I wish all of you, likewise, would plan to attend this. We've

7 got some legislators that maybe you would like to put on the

8 line a little bit. It will be very informal. We're going to

9 meet over at the Ram Bar. You can have a pitcher of beer if

10 you want, and kick around some with the things that were done

11 here this morning.

12 (LAUGHTER)

13 PRESIDENT MILLER: Is there anything else to bring

14 before the Bar this morning?

15 (NO RESPONSE)

16 PRESIDENT MILLER: I will entertain a motion to adjourn.

17 (UNIDENTIFIED): I so move.

18 (UNIDENTIFIED): Second it.

19 PRESIDENT MILLER: The meeting is adjourned, and we'll

20 see you all Saturday morning.

21 (Whereupon, at 12:15 p.m., the above meeting was

22 adjourned until 10 a.m. Saturday morning.)

1 IDAHO STATE BAR - June 26, 1971 - Saturday

2 PRESIDENT MILLER: I will now call again to order the

3 meeting. And our first announcement this morning will be

4 committee reports. I am pleased to announce the canvassing

5 committee has reported, as the newspaper has scooped us all

6 again this morning, John Bengtson has been duly elected as a

7 Commissioner of North Idaho, and our congratulations go to

8 John.

9 (APPLAUSE)

10 PRESIDENT MILLER: Our next reports from the Insurance

11 Committee. Is Jim Green here?

12 MR. KULL: No, he's not. I have his report.

13 PRESIDENT MILLER: Would you read that report, please,

14 Mr. Kull.

15 MR. KULL: Okay. The Insurance Liaison Committee submits

16 herewith a resume of the status of the group insurance programs

17 underwritten by Mutual of Omaha. No unusual problems have

18 arisen during the past year, either with respect to coverage

19 or claims. We believe the enclosed resume from Mutual of

20 Omaha is self-explanatory, and that the program continues to

21 operate on a satisfactory basis. Here's a letter from John

22 Squires to Mr. Green. It says, "This letter constitutes our

23 report on benefits and participation in the Idaho State Bar

24 Group Insurance Program from inception to March 31, 1971. We

25 are pleased to report that a total of \$221,985.00 has been paid

1 in benefits to Idaho lawyers during the history of the program.
 2 \$156,144.00 on Major Medical, \$46,841.00 on Disability Income,
 3 and \$20,000.00 on Life Insurance. Participation presently
 4 stands at 662 policies in force, 280 Major Medical, 261 Disa-
 5 bility Income, and 141 Life. As you are aware, a premium
 6 increase was made effective on the Major Medical Program,
 7 November 1, 1970. Although it is still too soon to have any
 8 meaningful figures, the present loss ratio on this program
 9 stands at eighty-eight percent, a considerable improvement over
 10 the picture last year at this time. We are also pleased with
 11 the considerable increase in participation, particularly in
 12 the Disability Income Plan. Five years ago less than 150
 13 lawyers were enrolled in this portion. Today the figure stands
 14 at 261. This fact, together with increased participation in
 15 both the Life Insurance and Major Medical indicates continuing
 16 interest on the part of the lawyers and general satisfaction
 17 with the service provided by our organization. As always, we
 18 appreciate the opportunity to serve the Idaho Bar and stand
 19 ready at any time to assist your committee."
 20 PRESIDENT MILLER: Thank you, Mr. Kull. Is there a
 21 motion to adopt the report?
 22 (UNIDENTIFIED): So moved.
 23 PRESIDENT MILLER: Is there a second?
 24 (UNIDENTIFIED): Second it.
 25 PRESIDENT MILLER: Any discussion? (NO RESPONSE)

1 Question? - All those in favor say aye.
 2 MEMBERS OF ASSEMBLY: Aye.
 3 PRESIDENT MILLER: Those opposed?
 4 (NO RESPONSE)
 5 Motion carried. - Mr. Dingel? Is he here at this time on the
 6 preparation committee? - Do you have his report?
 7 MR. KULL: I do.
 8 PRESIDENT MILLER: Can you summarize it? It's quite a
 9 long report, Kon.
 10 MR. BENOIT: I move we adopt the report without having
 11 it read.
 12 (UNIDENTIFIED): I second the motion.
 13 (LAUGHTER)
 14 MR. KULL: Briefly, what Al says - Well, actually, I'd
 15 kind of like to read it, because it says some nice things
 16 about me in it.
 17 (LAUGHTER)
 18 He wants to come up with some brochures and things for
 19 distribution out of law offices, which I think is a pretty
 20 good idea.
 21 PRESIDENT MILLER: I will say this. I think you are all
 22 aware that this past year we have turned over to Mr. Dingel
 23 and his crew the Advocate. We are somewhat proud today that
 24 the Advocate does come out, and it is disseminating information
 25 We hope you are satisfied with it. We feel it's a good pro-
 26 gram now. - All right. Judge Spear is here, and the next
 27 report is going to be on the Rules for Criminal Prosecution.

1 Judge Spear, would you please come forward, please. - - Did I
2 say Prosecution Procedures?
3 MR. BENOTT: Judge, may I see you a minute?
4 (LAUGHTER)
5 JUDGE SPEAR: No matter how old you get, you always have
6 some ding-a-ling you went to college with here.
7 (LAUGHTER)
8 Just a quick rundown is all about this committee, or the
9 Committee of the Idaho Rules of Criminal Procedure. I had
10 intended to have a copy of the proposed rules and didn't -
11 ready to pass out at this meeting for those in attendance and
12 those that were interested, so that they could take it back
13 home with them and study on this, if they were of a mind to do
14 so during the summer. But we ran into some snags and didn't
15 quite get on it. As a matter of fact, we just finished the
16 meeting of the committee yesterday about 4:30. To give you a
17 little history of this thing, this started with a report of
18 Bill Roden to the subcommittee of the Legislative Council.
19 This thing here. It was submitted on November 30, 1969, on
20 what he called comparative procedures. What it really was,
21 was he took from the Federal Rules of Procedure what he thought
22 were rules that would be applicable to Idaho and tried to
23 compare the two. He made this report to the subcommittee at
24 the same time that he made his report on his criminal code
25 revision, and Senator Rowett of Mountain Home felt that these

1 rules should be submitted to the court first for perusal at
2 least, and approval, and we agreed. We thought that that was
3 probably a good idea, because we had just gone through quite
4 a few years back, you know, on the basis that the court had
5 the rule-making power on procedural matters, wherein the
6 Legislature had the power on subjective matters in the Legis-
7 lature. So next the court appointed an advisory committee to
8 study these rules, and I wound up being chairman of the thing.
9 Another member decided that he didn't like it, and Roden was
10 hired as a consultant to ride herd on the whole thing on a
11 regular paying basis - hourly paying basis. We had the first
12 meeting of this committee on May 16, 1970, just a little over
13 a year ago, and I want to advise you this - I've worked on a
14 lot of committees for the Bar throughout the years, and I can
15 say without any hesitation that this is the finest and hardest
16 working, most dedicated committee that I've ever been on,
17 really, and I mean that, because as you will see as we go
18 along here, we finally wound up, we had to put this whole
19 thing together in sixty days, and these people did it. Maybe
20 that's the way you can get things done with lawyers. I don't
21 know. If you say six months, why of course, they wait until
22 the last two weeks, anyhow.

23 (LAUGHTER)

24 They had sixty days finally to get this done. But
25 anyway, the members of this committee are: Judge Ray Durchl

1 and Judge Darwin Cogswell. They are the two District Judges,
2 and then geographically, we tried to distribute it around the
3 State. And we also tried to get members that were defense-
4 minded, some prosecution-minded and so forth, so it would be
5 kind of a balanced committee in that respect as well as
6 getting the attitudes of the attorneys from different geogra-
7 phic sections of the State. Starting up north, we had Scott
8 Reed from Dour d'Alene, Gary Haman of Coeur d'Alene. Now,
9 Gary was designated by the prosecutor's section to represent
10 them as an active prosecutor, so they would be sure their
11 viewpoints would be well represented. John Bangtson, your
12 new commissioner from the northern division in Lewiston, Jim
13 Donart from Weiser, and Jim Derr in Boise. They were kind of
14 the hatchet men from the defense viewpoint. Tom Nelson, Twin
15 Falls, Mike Felton, Buhl, Clark Gasser in Pocatello, Roger
16 Wright, Idaho Falls. Now, as I say, at first, Bill Roden was
17 the consultant. But about all we accomplished in this May
18 meeting was to go through generally this report to see what it
19 was all about, and to divide up the various sections here and
20 assign them to subcommittees - two members on a committee -
21 sometimes three members - for study by the subcommittees of
22 these particular sections of this report, the various rules,
23 in other words. And we tried, of course, to set those geo-
24 graphic-wise so that they'd be able to correspond with each
25 other a little more handily than otherwise. But other than

that, we pretty much got bogged down because Bill was wrapped
 up with a cold and I was running for something or other.
 What was that?
 (LAUGHTER)
 Some minor post of some kind, and so I got all fouled up,
 too. And then, too, it looked as if the - These, incidentally,
 were patterned after the Federal Rules, and it looked as if
 there were going to be some fairly substantial changes made
 in them. At least they were going to be rewritten, and we
 got a copy of the proposed changes as of January, 1970. They
 have a standing committee in the Federal Judiciary System
 that periodically submits the proposed changes, and we got a
 copy of that and sent it to all the committee members so
 that they could look at it and see how it affected their
 particular sections, but then we decided that we'd better
 wait and see what the Legislature did with the Code. It might
 have some effect on some of these rules. So it got bogged
 down until - along about in April, I woke up to the fact that
 the Code had been passed to become effective on January 1, 1972
 So I took it up with Clark, and he felt it would be advisable
 if we could get the set of rules, if it was promulgated and
 become effective on the same date, and at the same time the
 court decided that what we needed was a sixty day crash
 program. This was in April. We took it up with Bill Roden,
 and he said he just simply couldn't afford to spend the time

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1 that it would require on a sixty day program. So then the
2 court cast about to find someone who could do it and was
3 knowledgeable in this deal, and we found Mack Redford, who had
4 served in the Attorney General's office, and then after that
5 had been in an office there in the firm in Boise that has the
6 Public Defender's contract. So he had been on both sides of
7 the fence. We took it up with him and with the other members
8 of his firm, and they said they'd take up the slack, so that
9 he could make this his first line of business for sixty days.
10 So we hired Mack for that purpose and he immediately got on
11 the ball and contacted all of the subcommittee members again,
12 set up an itinerary where he was to meet each one of these
13 subcommittees and go over their portion of it with them, make
14 the changes they suggested, get it altogether for a meeting
15 of the full committee, which we had a couple weeks ago,
16 June 11, 12, 13, something like that, in Boise in the Supreme
17 Court Building, and I thought that we could put all of these
18 together at that time, and then Mack could just type them up
19 and we'd have them ready for this meeting. Well, we worked
20 real hard for Friday, and Saturday and half of Sunday, and we
21 got through sixteen of these rules. And this is how these
22 people really picked these apart. I mean, every paragraph
23 and every sentence was scrutinized and aired out, and these
24 sixteen were basic. The policy and the philosophy and that
25 sort of thing were hammered out in those sixteen rules. And

1 in particular, for instance, the matter of taking depositions
2 and discovery rules are included in those rules, and we feel
3 that that's going to be a real step forward in the criminal
4 law. This is going to be afforded the State as well as the
5 Defendant when these rules are adopted. So we couldn't get
6 everybody together after that again until this meeting, so
7 we took up again at nine o'clock on Thursday, I guess it was.
8 We worked all day Thursday and all day yesterday and finally
9 completed these rules. They're numbered to 60. As I said,
10 they're patterned after the Federal Rules, so we used the
11 same numbering as the Federal Rules, so even though they're
12 not exactly the same, if you want to look at the parent rule,
13 so to speak, and see what may have been held in certain
14 jurisdictions about the rule and the way it's constructed so
15 that you will have the advantage of that. Now, there won't
16 be a full sixty of the rules, because there's some blanks in
17 there, but there are about fifty as I recall. Some of them
18 we felt were not applicable at all in Idaho, so we just omitted
19 them. Now then, the next step is for Mack to type them all
20 up, or we'll get them typed up some way or another, and we're
21 going to distribute these to members of the Bar that are
22 interested. Now, I realize that a lot of people have no
23 criminal practice whatsoever. They could care less. There
24 is no sense in wasting the time and effort to get it to these
25 people. So we're going to, of course, send it to all Prosecuting

1 Attorneys, all the Public Defenders. We're going to send
2 copies to all of the Bar Presidents, because they'll know
3 who is interested, and then put out a notice in the Advocate
4 that anyone who wants a copy can write to the Court Admini-
5 strator and get a copy, and do this right away, and permit
6 any of these interested parties to look over these rules
7 between now and in the Fall. In early Fall, we're going to
8 have meetings in every one of the Bar Districts - District
9 Bar Associations - with members of the committee to work on
10 these rules present, to cover the things again. Any questions
11 they might ask, they will try to answer them and hammer it
12 out. After we have that series of meetings, the committee
13 as a whole will meet some place, in Boise or elsewhere, and
14 get out the finalized report on the thing and submit it to
15 the Supreme Court. Now, that's about it, except that I do
16 mean what I said. I think this committee is one of the
17 finest ones that I've ever worked with. I appreciate all the
18 time that they have spent on it, and Mack Redford has done a
19 rare job on it. He really has. And that's about all I have
20 to report unless someone has some questions about it.
21 PRESIDENT MILLER: Thank you very much, Judge Spear. Do
22 we have a motion to accept this report?
23 MR. MAY: I move we accept this committee report.
24 MR. BENNETT: Seconded.
25 PRESIDENT MILLER: Question? - All those in favor, say

aye.

MEMBERS OF ASSEMBLY: Aye.

PRESIDENT MILLER: Those opposed?

(NO RESPONSE)

PRESIDENT MILLER: Allen Dingel, you came in too late.

We already paid you your accolades, and again, when you're absent and we do that, that shows you how sincere we feel

about it.

(LAUGHTER)

MR. DINGEL: Thank you, gentlemen.

(LAUGHTER)

PRESIDENT MILLER: Court reorganization Committee, Jim

Lynch. Do you have a report, Mr. Kull?

MR. KULL: I do.

PRESIDENT MILLER: Can you summarize the report?

MR. KULL: Briefly, Jim's report is this. That he feels

that more money is needed to pay the Magistrates. There is

some discontent, he says, about the method of selecting

Magistrates. Possibly there may be a bill in for modified

Missouri plan on selection. He also recommends that the name

of this committee be changed to the Idaho State Bar Court

Liaison Committee and be staffed by appointees of local Bar

Presidents.

PRESIDENT MILLER: You have heard the report. Is there

any discussion?

1	(NO RESPONSE)
2	PRESIDENT MILLER: Is there a motion to accept the report
3	as filed?
4	MR. BENOIT: I so move.
5	MR. MAY: Second.
6	PRESIDENT MILLER: Question?
7	UNIDENTIFIED: Question.
8	PRESIDENT MILLER: All those in favor, say aye.
9	MEMBERS OF ASSEMBLY: Aye.
10	PRESIDENT MILLER: Opposed?
11	(NO RESPONSE)
12	PRESIDENT MILLER: Our next committee report is our Bar
13	Press Committee, and our chairman is here, Judge E. B. Smith.
14	Would you give us your report, please, sir?
15	MR. KULL: I think there's a letter on file.
16	JUDGE SMITH: There is.
17	PRESIDENT MILLER: Yes. Do you want your letter, Judge,
18	or will you just summarize it for us?
19	JUDGE SMITH: Well, this in effect is, the members of
20	the committee had nothing concrete to report on, and I
21	summarized from my own experience in the past as Bar Commis-
22	sioner in the letter to the effect - that bringing it up to
23	date - we have no quarrel whatsoever with any of the press
24	men all over the State. They have always cooperated very
25	spendingly with the exception of an occasion or two when we'd

1 have to get in a fight with them and set down with them and

2 put our feet under the table and drink with them.

3 (CHUCKLING)

4 We found out that under all circumstances that they

5 would cooperate to the greatest extent, and I summarized

6 that in the letter. I also stated that due to the fact that

7 the way to cooperate with the press, they could prepare

8 their press releases in advance, and then we know what

9 they're getting.

10 PRESIDENT MILLER: Free press.

11 (EVERYONE CHUCKLING)

12 JUDGE SMITH: And they always very deeply appreciate the

13 services that we perform for them.

14 (LAUGHTER)

15 Thank you, gentlemen. That's the consensus of the

16 report.

17 PRESIDENT MILLER: All right. Thank you, Judge.

18 MR. THOMAS: Could I commend E. B. on the brevity of

19 his report.

20 (LAUGHTER)

21 JUDGE SMITH: I think it would surprise you to know that

22 the Idaho Peace Officers Association at its convention yester-

23 day did endorse the compact and has executed it or directed

24 its president to execute it, and I suppose in the Prosecutors

25 section of the report, it will be noted that the Prosecuting

1 Attorneys section did likewise. That all happened in the

2 last forty-eight hours.

3 PRESIDENT MILLER: Thank you, Judge Smith. - Is there

4 any further discussion? (NO RESPONSE) I will entertain a

5 motion to accept the report as filed.

6 MR. BENOIT: So moved.

7 MR. MAY: Seconded.

8 PRESIDENT MILLER: Ready for the question?

9 UNIDENTIFIED: Question.

10 PRESIDENT MILLER: Those in favor, say aye.

11 MEMBERS OF ASSEMBLY: Aye.

12 PRESIDENT MILLER: Those opposed?

13 (NO RESPONSE)

14 PRESIDENT MILLER: Our next report is our Legislative

15 Program Committee report from Bob Koontz. Bob, you've filed

16 a report, have you?

17 MR. KOONTZ: Yes. I filed a report.

18 PRESIDENT MILLER: Would you care to summarize it for

19 us, or have Mr. Kull do it?

20 MR. KOONTZ: I would like to have Mr. Kull do it for me.

21 (LAUGHTER)

22 (OFF THE RECORD)

23 MR. KULL: Could you summarize it, Bob? (CHUCKLING)

24 MR. KULL: Here it is. Here it is. Well, briefly, I

25 hate to do this with you sitting here, Bob, because you'll

1 probably correct me. Anyway, the report is on the passage

2 of the Uniform Probate Code, and it talks about some of the

3 complications in getting the Code passed and the Bar's endorse-

4 ment and so forth. He also mentions Mr. Lynch's work with the

5 Magistrate Court System. Several bills were passed during the

6 session which rather dramatically effect the legal profession;

7 among those are the Uniform Consumer Credit Code, the revision

8 of the Penal Code, jury selection and service act, Idaho Court

9 Claims Act, and Comparative Negligence Act. The committee

10 took no position on these bills due to a lack of expression

11 from members of the Bar.

12 PRESIDENT MILLER: Any further discussion? - Mr. Olsen?

13 - I will entertain a motion that the report be accepted as

14 filed.

15 MR. OLSEN: So moved.

16 PRESIDENT MILLER: Is there a second?

17 UNIDENTIFIED: I second it.

18 PRESIDENT MILLER: Any discussion? (NO RESPONSE)

19 Question?

20 UNIDENTIFIED: Question.

21 PRESIDENT MILLER: All in favor, say aye.

22 MEMBERS OF ASSEMBLY: Aye.

23 PRESIDENT MILLER: Opposed?

24 (NO RESPONSE)

25 PRESIDENT MILLER: Bob, the chairman of the Economic

1 Facts of Law Committee is not here, and you have filed a

2 report on that.

3 BOB KOONTZ: I've filed a report for Mr. Service.

4 PRESIDENT MILLER: Will you summarize that for us, or

5 do you want Ron to do that again?

6 MR. KOONTZ: He'd better do that one.

7 MR. KULL: This I'd better read, because they are

8 recommending some increases in the minimum fee schedule.

9 Section 1, U. S. Court of Appeals, appearance, brief and all

10 arguments changed from \$1500.00 up to \$2000.00. Section 2,

11 State Supreme Court, Appellant taking appeal briefs and

12 argument, change is \$1,000 to \$1,500.00. Respondent appearance

13 brief and argument, change, \$750.00 to \$1,000.00. Section 3,

14 State and Federal District Court, divorce, modification of

15 decree, add, not involving custody, \$225.00; add, involving

16 custody, \$350.00. Section 4, Justices in Probate Court

17 practice, change heading to read Magistrate's Division of the

18 District Courts, add (a) civil and criminal matters other than

19 probate, appearance change, \$50.00 to \$75.00. Trial, per diem

20 change, \$200.00 to \$250.00. Probate Court matters, strike

21 the symbol 5, and the word, probate, and add new subsection (b)

22 to read as follows: "(b) Termination of parent-child rela-

23 tionship, \$175.00." Then there are some changes of subsec-

24 tions to make this read. Then add new number 4 to read as

25 follows: "In an appropriate case, a fee may be prepared," -

1 This is on Probate still. - "In an appropriate case, a fee
 2 may be prepared on the basis of the actual time devoted to
 3 such case rather than figured on the above percentage and the
 4 lesser of the two figures may be charged. There are several
 5 other simply mechanical changes to make the minimum fee
 6 schedule conform, but this is all of the actual minimum fee
 7 schedule - or advisory fee schedule. Excuse me.
 8 PRESIDENT MILLER: Any questions or discussions?
 9 (NO RESPONSE)
 10 This committee has worked hard. They do a good job every
 11 year. - I will entertain a motion to accept the report as
 12 filed.
 13 JUDGE SMITH: So moved.
 14 MR. KOONTZ: Second.
 15 PRESIDENT MILLER: All those in favor say aye.
 16 MEMBERS OF ASSEMBLY: Aye.
 17 PRESIDENT MILLER: Opposed?
 18 (NO RESPONSE)
 19 PRESIDENT MILLER: Our next report, Ron, is the Legal Aid
 20 Committee report. Bill Stellman. Is he here? (NO RESPONSE)
 21 How long a report is that?
 22 MR. KULL: It's huge.
 23 PRESIDENT MILLER: That's a long report. - I might
 24 summarize that report for you just in this respect. It has
 25 been the policy of the State Bar that legal aid is a question

1 First addressed to your District Bar level, and it is there
 2 to be resolved and there to be implemented and carried out.
 3 Early in this year, I went to Washington, D. C., and I met
 4 with members of the O. E. O. office of - I guess it's the
 5 Health, Education and Welfare - with the idea of making
 6 inquiries to whether or not Idaho could implement and start a
 7 system in the State of Idaho for legal aid, wherein the funds
 8 would be administered on the State level for the entire State
 9 of Idaho. The people I talked with were very interested.
 10 They felt that this might be a pilot program that they could
 11 take in a small State with large geographical problems, and
 12 they were very interested in approaching it this way in Idaho.
 13 Unfortunately, within about thirty days after I got back, Mr.
 14 Nixon saw fit to change the employment of these two indivi-
 15 duals, cut off the Federal funds, and as a result, that's
 16 where we are still sitting. We still continue to operate
 17 our O. E. O. through the local District level, but there is
 18 a resolution here that will call for further study in the area
 19 of support. Idaho might in the future look at a judicial
 20 system in this respect. I think that is a summary of what
 21 Mr. Stellman reports. Is that not true?
 22 MR. KULL: Yes, sir.
 23 PRESIDENT MILLER: Any further discussion or question
 24 about it? (NO RESPONSE) I will entertain a motion
 25 that the report be accepted as filed.

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MR. BENOIT: So moved.

MR. KOONTZ: Second.

PRESIDENT MILLER: Any discussion? (NO RESPONSE) ALL

those in favor, say aye.

MEMBERS OF ASSEMBLY: Aye.

PRESIDENT MILLER: Those opposed?

(NO RESPONSE)

PRESIDENT MILLER: We have a report from the Professional

Liaison Committee. Mr. Blanton, do you have that, sir?

MR. KULL: I do.

PRESIDENT MILLER: Is Chuck here?

MR. KULL: No.

PRESIDENT MILLER: Can you summarize that for us?

MR. KULL: The Professional Liaison Committee efforts

during the past year were limited to the cooperative support

of the several professional groups in seeking passage of the

legislation for a Statute of Limitations in malpractice claims

While this legislation speaks directly to certain medical

malpractice claims, it is so worded that all professional

malpractice claims should come within its coverage. This

committee has excellent potential to enhance the construction

of our interprofessional relationships and should be continued

Respectfully submitted.

PRESIDENT MILLER: Any questions?

(NO RESPONSE)

1 PRESIDENT MILLER: I will entertain a motion that the

2 report be filed.

3 MR. KOONTZ: So moved.

4 MR. BENOIT: Second.

5 PRESIDENT MILLER: All those in favor, say aye.

6 MEMBERS OF ASSEMBLY: Aye.

7 PRESIDENT MILLER: Opposed?

8 (NO RESPONSE)

9 PRESIDENT MILLER: Now, with the exception of the

10 Secretary's report, are there any other reports, Mr. Kull?

11 MR. KULL: We have a report of the Examining Committee

12 here.

13 PRESIDENT MILLER: I understand that's going to be in

14 your report, Ron.

15 MR. KULL: It's essentially within my report.

16 TOM NELSON: Gene?

17 PRESIDENT MILLER: Yes.

18 MR. NELSON: The C. L. E. Committee did not prepare a

19 written report. In the absence of Jim Schiller, I was asked

20 to inform the Bar that at the request of the Supreme Court,

21 we will run a C. L. E. program next January on the new

22 Criminal Code, and the program, of course, next Spring, will

23 be the new Probate Code, and Jim already announced the

24 September institutes on Comparative Negligence.

25 PRESIDENT MILLER: All right. Thank you, Tom. I want

to express my deep appreciation to the C. L. E. Committee this
 past year in their great work. They've shown a black report
 upon your endeavors last year as opposed to some other years
 before, and thank you very, very much, all of you people. -
 Well, we'll have the Secretary's report at this time. Mr.
 Kull, will you give us the Secretary's report of the Idaho
 State Bar Association?
 MR. KULL: Well, I can summarize my report rather
 briefly, if you wish, Mr. President, because I do have copies
 of them. Briefly, the Bar has shown a healthy growth in mem-
 bership and finances. Today, our Client's Security Fund has
 something over \$16,000.00 in it. No claims have been filed.
 It consists of Certificates of Deposits in the Bank of Idaho.
 Continuing legal education as Tom reported has been rather
 successful during this past year both as to quality and as
 to finances. I have the list here of the deceased lawyers
 which you can all read. As you see, our membership has risen
 in a year from 724 to 764. We had twenty five informal com-
 plaints filed with the Bar Commission during the past year.
 As of now, we have thirteen matters on the agenda. There is
 one formal disciplinary complaint which is pending decision
 by the Supreme Court at this time. We have given two Bar
 examinations. Examination was conducted in September, 1970,
 at which time fifty five applicants sat for the exam and
 thirty eight were successful. Another examination conducted

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last April, eleven out of nineteen passed. Your C. L. E. figures are there as to the total attendance. I would like again to invite you to attend either the Comparative Negligence Institute either on September 10, in Moscow, or September 11, at Twin Falls. The last stage of my report is the balance sheet, and I think shows a fairly healthy financial situation. We're not wealthy, but we're not broke either. Thank you.

PRESIDENT MILLER: Any questions? Discussion?

(NO RESPONSE)

PRESIDENT MILLER: May we have a motion that the report be filed.

MR. BENOIT: So moved.

PRESIDENT MILLER: Do we have a second?

MR. NELSON: Second.

PRESIDENT MILLER: All those in favor, say aye.

MEMBERS OF ASSEMBLY: Aye.

PRESIDENT MILLER: Those opposed?

(NO RESPONSE)

PRESIDENT MILLER: We are now down to the Resolutions Committee. As you are aware, in our open session, all resolutions that had been filed and publicized were at that time presented. The Resolution Committee has come forth now with their last resolution. At this time, I'll call upon our Chairman, Mr. Reed Clements to submit to you the final

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1 resolution for your consideration.

2 RESOLUTION COMMITTEE CHAIRMAN: Thank you, Mr. President.

3 Ladies and Gentlemen, I submit this as a resolution which I

4 advised you would be submitted, covering some of the matters

5 we felt should be put before you at this time, for which at

6 that time had not been reduced to writing. So I now will

7 read to you and submit the following resolution which was

8 moved by the First District, seconded by the Fifth District,

9 and passed unanimously by the Resolution Committee this

10 morning.

11 (RESOLUTION READ)

12 Gentlemen, that is a resolution which we have acted upon

13 unanimously and submit for consideration. In addition thereto,

14 we do have some courtesy resolutions, the whole body of which

15 I will not read, but I do believe that it is appropriate. The

16 meeting that we have enjoyed was due in many respects to these

17 people, and I think their names should be read, and I think

18 they should be given the commendation that they so richly

19 deserve. We resolve to thank Mr. Bill Kurtis of CBS for his

20 highly interesting comments; Mr. James J. Egan, Jr., for his

21 comments on the Triple C; Mr. H. Lee Turner who gave

22 the address at the luncheon meeting; Mr. Alfred S. Julien for

23 his very entertaining talk yesterday afternoon. We are

24 obligated to Senator Edith Miller Klein, who gave of her time

25 and talent in this meeting, as well as to Senator Ray Rigby,

1 Senator Wayne Kidwell, Terry Crapo, the Honorable Sherman

2 Bellwood, Mack A. Redford, James Risch. We also are indebted

3 to the following concerns for their help in providing refresh-

4 ments: The Bank of Idaho, The First Security Bank, Callaghan

5 and Company, Capitol Title Company, The Idaho Title Company,

6 Mutual of Omaha. And we're obligated to Carroll's who provided

7 a style show for the ladies yesterday afternoon.

8 MR. BENOIT: I move the adoption of all those resolutions

9 of thanks.

10 UNIDENTIFIED: I'll second it.

11 RESOLUTIONS COMMITTEE CHAIRMAN: All those in favor of

12 the motion?

13 MEMBERS OF ASSEMBLY: Aye.

14 RESOLUTIONS COMMITTEE CHAIRMAN: Opposed?

15 (NO RESPONSE)

16 RESOLUTIONS COMMITTEE CHAIRMAN: Motion carried. And

17 I'm very happy to say, Mr. President, that concludes the work

18 of the Resolutions Committee and its Chairman.

19 (LAUGHTER)

20 PRESIDENT MILLER: I want to introduce you to Mr.

21 Cridwell someday.

22 (LAUGHTER)

23 MR. BENOIT: For the record, I move the adoption of the

24 first resolution there.

25 MR. KOONTZ: Second.

1 PRESIDENT MILLER: Well, I think now, gentlemen, before
2 we get into the resolutions, there is coffee. Let's take a
3 five minute break. We'll take the resolutions in order as
4 introduced.
5 (A FIVE MINUTE RECESS WAS TAKEN)
6 PRESIDENT MILLER: The meeting will come to order again.
7 I think checkout time at Sun Valley is 12:00 o'clock noon,
8 and your room rates continue thereafter. We're going to
9 adjourn this meeting at 12:00 o'clock noon. Now, there is
10 before us a resolution that has been duly read to you, and
11 it has been moved and seconded. Is there any discussion as
12 to this resolution?
13 MR. MAY: Which resolution?
14 WAYNE KIDWELL: Aren't we going to take these up in
15 order?
16 PRESIDENT MILLER: The one we just read, Wayne. The one
17 just recently read and discussed. The one that was just read
18 by Mr. Thomas. That's the one now before us. No. 13, I
19 believe. Yes. No. 13. Is there any discussion?
20 UNIDENTIFIED: What were you talking about? The one
21 you last read?
22 PRESIDENT MILLER: The one that was just read. Yes.
23 This is a matter of policy. It is therefore the unit rule
24 that applies, pursuant to Rule No. 185, and we'll have a roll
25 call vote. Mr. Secretary, will you call the roll of the -

1	SECRETARY: First District, 67 votes.
2	FIRST DISTRICT: Votes to carry the resolution.
3	SECRETARY: Second District, 79 votes.
4	SECOND DISTRICT: Aye.
5	SECRETARY: Third District, 68 votes.
6	THIRD DISTRICT: I think we'll vote in favor of it.
7	SECRETARY: Fourth District, 267 votes.
8	FOURTH DISTRICT: I don't know how to vote. I haven't
9	had caucus yet.
10	MR. MILLER: Well, get your caucus together.
11	MR. THOMAS: Let's caucus right now. I'd say yes.
12	MR. CHALFANT: I say no.
13	MR. DALEY: I say no.
14	PRESIDENT MILLER: We'll pass the Fourth District for
15	about five minutes.
16	SECRETARY: Fifth District, 191 votes. - Do you want
17	to caucus?
18	FIFTH DISTRICT: Yes.
19	SECRETARY: Sixth District, 74 votes.
20	SIXTH DISTRICT: Aye.
21	SECRETARY: Seventh District, 84 votes.
22	SEVENTH DISTRICT: Aye.
23	PRESIDENT MILLER: We have the Fourth and the Fifth.
24	FIFTH DISTRICT: We cast our votes in favor of the
25	resolution, 101 votes.

1 MR. BENOIT: And I apologize to the man I'm going to
2 ask to address you for a moment that we aren't all assembled,
3 but Idaho will be honored for the second time in its history
4 by having a man on the Board of Governors of the A.B.A. And
5 I would ask Blaine Anderson to stand forward and acknowledge
6 that great -
7 (APPLAUSE)
8 BLAINE ANDERSON: Thank you. I'll try to represent you
9 fellows to the utmost.
10 PRESIDENT MILLER: I'm sure you'll do a good job. -
11 Now, the rest of these resolutions you have. They have all
12 been published. They have been read at length in our opening
13 meeting, and we will take No. 1 and discuss it while pending
14 the return of the Ada County Bar. First Resolution. - Here
15 we go. I think I should ask the proper question. Has Ada
16 County now caucused?
17 MR. CHALFANT: Mr. Chairman, we have.
18 PRESIDENT MILLER: Is the Ada County delegate ready
19 to vote?
20 MR. CHALFANT: Yes.
21 PRESIDENT MILLER: How does the Ada County delegate cast
22 its vote.
23 MR. CHALFANT: We voted no.
24 PRESIDENT MILLER: Mr. Secretary, you record a no vote
25 for Ada County. What is the total ballot?

SECRETARY: By the head?

PRESIDENT MILLER: Affirmatives and negatives, yes. -

What is it, Mr. Secretary?

SECRETARY: The vote is 473 in favor, 267 opposed.

PRESIDENT MILLER: The chair declares Resolution No. 13 passed. - Resolution No. 1 is a resolution whereby we find that in our dissemination of information for your desk book, attorneys are not refunding the State Bar Association for cost thereof. This resolution as published gives authority to the State Bar Association to deduct \$2.50 per member of the rebate to the local bar for the cost of the desk book publication.

Is there any further discussion?

MR. CHALFANT: I move to adopt the resolution.

MR. HAMILTON: Second it.

PRESIDENT MILLER: It has been moved and seconded that the resolution be adopted. Any further discussion? - This effects the policy of the State Bar. Unit rule applies. Would you call the rolls of the Districts.

MERRILL ~~AGE~~: Mr. Chairman?

PRESIDENT MILLER: Yes.

MR. ~~AGE~~: I'd like a chance for some discussion.

PRESIDENT MILLER: Excuse me, sir. Go ahead.

MR. ~~AGE~~: The Fifth District Bar Association would like to voice its opposition to this and the companion resolution so we don't have to discuss it any further. The one relating

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1 to the assessment of District Bars for the purchase of
2 machinery. And our reasoning and our instruction from our
3 local Bar Association is that it was felt by the statute and
4 by the commitment of the Bar Association that the local bars
5 dues would remain an inviolate fund. We felt that with the
6 passage of - we hope successfully - the second resolution, or
7 third one, which dispenses with the obligation of the proceed-
8 ings of this Bar Association, that there thereby would be
9 enough money saved to both purchase the machine and pay for
10 the desk book. And furthermore, we feel that this is an
11 invasion of the individual attorney's responsibility to pay
12 for that which he receives and we think that this is a
13 responsibility which should be recognized by each individual
14 attorney to pay for it. I'd hate to think that next we would
15 come along with a resolution that the State Bar Association
16 would supply books and pocket parts and so on to other things,
17 and charge us through the Association. We think this is the
18 wrong way to approach it, and it is making an inroad to the
19 local Bar Association's funds.
20 PRESIDENT MILLER: Thank you, sir. Is there any further
21 discussion?
22 REED CLEMENTS: It is intended to cover the publication
23 of the Magistrate Rules. All these new rules that we have
24 received in the past year in the court reform. This is what
25 this is intended to cover.

1	PRESIDENT MILLER: Any further discussion?
2	(NO RESPONSE)
3	PRESIDENT MILLER: Mr. Secretary, call the roll of the
4	Presidents of the Districts.
5	SECRETARY: First District, 67 votes.
6	FIRST DISTRICT: Votes aye.
7	SECRETARY: Second District, 79 votes.
8	SECOND DISTRICT: Aye.
9	SECRETARY: Third District, 68 votes.
10	THIRD DISTRICT: It votes yes.
11	SECRETARY: Fourth District, 267 votes.
12	FOURTH DISTRICT: Aye.
13	SECRETARY: Fifth District, 101 votes.
14	FIFTH DISTRICT: Aye.
15	SECRETARY: Sixth District, 74 votes.
16	SIXTH DISTRICT: Nay.
17	SECRETARY: Seventh District, 84 votes.
18	SEVENTH DISTRICT: Aye.
19	SECRETARY: The vote is 666 to 74 in favor.
20	PRESIDENT MILLER: The chair declares Resolution No. 1
21	to be passed. - No. 2. This is a resolution that is the
22	Commissioners response to the mandate last year that we ex-
23	amine all other sister States, supply the information relative
24	to legislative process in the State of Idaho. We have asked
25	you to authorize the purchase of a piece of equipment in the

1 amount of \$1450.00. The Multilith. Is that correct, Ron?

2 MR. KULL: Yes, sir.

3 PRESIDENT MILLER: This would be one cost. It would be

4 used, of course, for other purposes in the Bar office. It

5 would be used for the purpose of carrying out our legislative

6 information programing that we will come to. The cost of

7 mailing and the cost of paper will still be borne by the

8 State Bar office.

9 All right. Any further discussion or question about

10 Resolution No. 2?

11 WAYNE FULLER: I move its adoption.

12 MR. HAMILTON: Second.

13 PRESIDENT MILLER: It has been moved and seconded that

14 Resolution No. 2 be adopted. Any discussion?

15 (NO RESPONSE)

16 PRESIDENT MILLER: This is not a policy resolution.

17 Therefore we submit it to the Assembly. All those in favor,

18 say aye.

19 MEMBERS OF ASSEMBLY: (Majority) Aye.

20 PRESIDENT MILLER: Those opposed?

21 SEVERAL MEMBERS OF ASSEMBLY: Nay.

22 PRESIDENT MILLER: The ayes have it. Resolution No. 2

23 passes.

24 Resolution No. 3. It is a resolution that we may

25 dispense with the actual publication - not transcription -

1 publication of the proceedings of the Idaho State Bar.

2 MR. BENOIT: I move its adoption.

3 MR. HAMILTON: Second.

4 PRESIDENT MILLER: We have a move for adoption and

5 second. Are you ready for discussion.

6 UNIDENTIFIED: Question.

7 PRESIDENT MILLER: This is a policy. Unit rule will

8 apply. Will you please call the roll, Mr. Secretary.

9 SECRETARY: First District, 67 votes.

10 FIRST DISTRICT: Votes aye.

11 SECRETARY: Second District, 79 votes.

12 SECOND DISTRICT: Aye.

13 SECRETARY: Third District, 68 votes.

14 THIRD DISTRICT: Aye.

15 SECRETARY: Fourth District, 267 votes.

16 FOURTH DISTRICT: Aye.

17 SECRETARY: Fifth District, 101 votes.

18 FIFTH DISTRICT: Aye.

19 SECRETARY: Sixth District, 74 votes.

20 SIXTH DISTRICT: Aye.

21 SECRETARY: Seventh District, 84 votes.

22 SEVENTH DISTRICT: Aye.

23 SECRETARY: Vote is 740 in favor.

24 PRESIDENT MILLER: Resolution No. 3 is passed unanimously.

25 Resolution No. 4 is a request that there be made a study of

1	Filing fees, particularly in relation to probate fees,
2	conditioned upon however, that should not be reflected as any
3	inquiry into judicial retirement.
4	(LAUGHTER)
5	MR. FULLER: I move its adoption.
6	PRESIDENT MILLER: It has been moved. Is there a second?
7	MR. HAMILTON: Second.
8	PRESIDENT MILLER: This is an assembly vote. All those
9	in favor, say aye.
10	MEMBERS OF ASSEMBLY: Aye.
11	PRESIDENT MILLER: Those opposed?
12	(NO RESPONSE)
13	PRESIDENT MILLER: Passed. - Resolutions No. 6, 7, 8,
14	8a and 9 relate to the adoption in the State of Idaho of the
15	Code of Professional Responsibility. These have been pub-
16	lished. They relate to the great work that Gene Thomas has
17	done in modification in certain areas. They relate to the
18	Ada County request for modification, No. 7. No. 8 is for the
19	establishment of a Peer Committee. - Do you have a question?
20	MR. CHALFANT: That's the Peer Review?
21	PRESIDENT MILLER: Peer Review. 8a is the guidelines
22	for the Peer Review Committee. No. 9 is the resolution
23	relative to the inquiry in regard to the Martindale-Hubbel
24	ratings. These have all been read at length. They have
25	been discussed throughout. This effects the policy. The

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unit rule applies.

MR. HAMILTON: I move the adoption of all those resolu-
tions.

MR. ACE: Second.

PRESIDENT MILLER: We are now voting on Resolutions 6,
7, 8, 8a and 9. Any discussion?

PATRICIA McDERMOTT: I have a question, Mr. Chairman,
and it's only with respect to the legal aid, and perhaps I'm
a bit confused as usual, but within Resolution No. 6, unless
it's modified, on page 6 in subsection (d), paragraph 1, it
says, "A lawyer shall not knowingly assist a person or orga-
nization that recommends, furnishes or pays for legal services
to promote the use of his services," and so on and so forth,
and then, "Those that are permissible is a legal aid office,"
and then written in it, "a military legal assistance office
or public defender office operated, sponsored or approved by
the duly constituted District Bar Association of the geographi-
cal area in which these Associations exist." Now, my question
is, is this still what we're voting on, this particular
paragraph?

PRESIDENT MILLER: This paragraph is part of the
package. Yes.

PATRICIA McDERMOTT: Well then, I would say that unless
an amendment would be offered taking this out, I think there
should be a minimum set. The first being that the office of

1 public defender is established by statute, and it doesn't
 2 make a whit's difference, with all due respect to our local
 3 Bar Associations, whether they like it or they don't like it.
 4 If the District Judge goes ahead and appoints one, it's going
 5 in, and I don't think it's right to have lawyers having their
 6 Canons of Ethics something that could possibly subject an
 7 attorney participating in that program to being censured as
 8 being unethical. The second is that in certain areas where
 9 you have the O. E. O. offices, if the O. E. O. Legal Aid
 10 Office would perhaps bring an unpopular lawsuit that unglues
 11 the local Bar Association, or say even ten or twelve members,
 12 who might well constitute a forum, they come to a meeting and
 13 withdraw their approval by a duly constituted quorum, then
 14 you have lawyers who are already on existing Boards and
 15 programs suddenly being faced with either an immediate resig-
 16 nation or subject to being disbarred for unethical conduct,
 17 and I don't think that's proper.

18 PRESIDENT MILLER: This was fully discussed on Thursday
 19 when the resolution was introduced. It was going to, I think,
 20 as you understand, O. E. O. approval. First, the local
 21 District Bars approve it. This is certified at the State Bar
 22 level and then the State Bar certifies that to the Federal
 23 Government. Certainly no disapproval by a local District Bar
 24 could escape the Bar Commissioners, and this was discussed.
 25 Is there any further discussion?

WAYNE FULLER: Mr. President?

PRESIDENT MILLER: Yes.

WAYNE FULLER: Yes. I brought up that discussion.

Wayne Fuller from Caldwell, Third District. And I think I

ought to tell Pat that it's our intention at a future date to

offer some sort of an amendment with regard to this particu-

lar provision, but we felt at this time that even though

perhaps it wasn't right, that rather than try and go through

and amend it at this time, we would wait and ask for an amend-

ment at a later time. And we discussed this quite at some

length and presented the problems, especially with regard to

legal aid offices and public defenders.

PRESIDENT MILLER: Any further discussion?

MR. THOMAS: Mr. Chairman?

PRESIDENT MILLER: Yes.

GENE THOMAS: Gene Thomas, Boise. Thinking of the

draft and thinking of the people who have developed and

improved it today is that if indeed the District Bar

Association were to abuse the trust that this Code does impose

in it, there probably would be no problems securing the endorse-

ment of the court and the State Bar to amend these rules.

But at this time, it was the judgment of myself as the

draftsman and others with whom I worked that the trust had

to be placed somewhere. And the policy of this State Bar has

been to place the trust on this kind of matter with the local

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attorneys in their local Districts. I believe that until

they demonstrate that this is a poor decision, that's the

place to leave it. It is my hope and my expectation that the

years will demonstrate that it was placed in good hands and

much better than any alternative that we could think of.

Thank you, Mr. Chairman.

PRESIDENT MILLER: Thank you. Is there any further

discussion?

MR. MOORE: Mr. Chairman?

PRESIDENT MILLER: Yes, Mr. Moore.

MR. MOORE: Mike Moore, Lewiston Clearwater Bar. I, too,

had some questions and reservations about this section, and I

agree with everything that Pat McDermott has said about this.

I think it's absolutely unenforceable as far as the Public

Defender office. But I think this can be read, and I would

interpret it with respect to the legal services offices that

the legal services office must have the support of the local

Bar Association to get established in the first place. I

agree with that entirely. Once it's established, however, I

don't think a resolution expressing disapproval by the District

Bar Association would operate to throw out that program or -

Well, in addition to that I do not believe that a lawyer who

did continue to work for or cooperate with such a legal

services office would be acting in violation of this section.

PRESIDENT MILLER: Any further discussion?

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1 UNIDENTIFIED: Question.

2 PRESIDENT MILLER: The question has been called for.

3 Mr. Secretary, will you read the roll call.

4 SECRETARY: First District, 67 votes.

5 FIRST DISTRICT: Votes aye.

6 SECRETARY: Second District, 79 votes.

7 SECOND DISTRICT: Aye.

8 SECRETARY: Third District, 68 votes.

9 THIRD DISTRICT: We vote aye on all resolutions except

10 No. 7. We are instructed to vote no on that.

11 SECRETARY: Fourth District, 267 votes.

12 FOURTH DISTRICT: Fourth District votes aye on all the

13 resolutions subject to a point of order by any member who

14 wants to caucus.

15 JERRY STEWART: (LAUGHTER)

16 JUDGE SPEAR: Well taken. I'll waive a caucus.

17 (LAUGHTER)

18 MR. THOMAS: Let's hear it for Judge.

19 (LAUGHTER)

20 SECRETARY: Fifth District -

21 FIFTH DISTRICT: Aye.

22 SECRETARY: Sixth District.

23 SIXTH DISTRICT: Aye.

24 SECRETARY: Seventh District.

25 SEVENTH DISTRICT: Aye.

SECRETARY: The vote on all except Resolution No. 7 is 740 in favor, none against. On Resolution No. 7, it's 672 in favor, 68 opposed.

PRESIDENT MILLER: I declare that they all passed. I

might tell you this, that these have been reviewed by the

Supreme Court prior to our meeting here. There has been an

order entered subject to your approval that these will go

into effect as of five o'clock this afternoon in the State of

Idaho, and the Supreme Court has so entered their order as of

yesterday, conditioned upon our action here today. So when

you return to the A. B. A. realm, you can tell them Idaho is

now in the Code of Professional Responsibility area.

MR. BENOIT: Shall I also report that the First District

refused to adopt the Uniform Probate Code?

(LAUGHTER)

PRESIDENT MILLER: All right. Resolution No. 10, the

legal aid resolution. This calls for further study. It

would be in conformity with what we discussed earlier, that

to determine and ascertain whether or not the Federal funding

in the State of Idaho might not get into a modified judicare

system whereby there would be funds available through the

State system for employment in local areas where the existing

O. E. O. offices are not active. Is that correctly stated?

MR. FULLER: Well, it's just a study resolution. I

would move its adoption. I think that this is a good

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1	resolution. This comes from the legal aid committee and had
2	its unanimous support.
3	PRESIDENT MILLER: Yes. Certainly. We need a second on
4	that. Is there any second.
5	MR. HAMILTON: Second.
6	UNIDENTIFIED: Question.
7	PRESIDENT MILLER: The question has been called for.
8	This will be a unit vote. Will you please call the roll,
9	Mr. Secretary.
10	SECRETARY: First District.
11	FIRST DISTRICT: Aye.
12	SECRETARY: Second District.
13	SECOND DISTRICT: Aye.
14	SECRETARY: Third District.
15	THIRD DISTRICT: Third District votes aye.
16	SECRETARY: Fourth District.
17	FOURTH DISTRICT: Fourth District votes aye.
18	SECRETARY: Fifth District.
19	FIFTH DISTRICT: Aye.
20	SECRETARY: Sixth District.
21	SIXTH DISTRICT: Aye.
22	SECRETARY: Seventh District.
23	SEVENTH DISTRICT: Aye.
24	SECRETARY: Vote is 740 in favor. None opposed.
25	PRESIDENT MILLER: Resolution No. 10 is passed. -

1	Resolution No. 11 has received considerable amendments and
2	should be ready to be published in the Advocate. And I might
3	tell you what those amendments are. After having met with
4	Dean Menard and with the Supreme Court, we propose a legal
5	intern rule in the State of Idaho, amendments to our present
6	rules and incorporation of Rule 123. Due to the terminology
7	heretofore employed, "a limited license," we have now scaled
8	it down to call it a qualified permit. In other words, the
9	interns will receive qualified permits from the Supreme Court
10	rather than a license. The reason for this is: There was
11	some objection about the use of the terminology of license,
12	and that came, by the way, from the Court itself. Now, the
13	original rules provided than an intern could appear under
14	certain circumstances before an Attorney Magistrate or a Lay
15	Magistrate without the presence of the supervising attorney
16	upon approval of the District Court Judge. We have proposed
17	a modification of that. We have that approved now. The
18	District Court Judge will have no authority to pass upon that
19	question. The supervising attorney will file a certificate
20	before the Attorney Magistrate or the Lay Magistrate to the
21	effect that he has participated in three proceedings with that
22	intern, that that intern is prepared to go ahead and represent
23	this client without the presence of the supervising attorney.
24	That the consent of the client has been duly obtained in
25	writing and filed, and that the supervising attorney remains

1 solely responsible for all acts and conduct of the intern.

2 Now, Dean Menard, is that fairly stated, sir?

3 DEAN MENARD: Yes, sir.

4 PRESIDENT MILLER: All right. Now, the other area is

5 that there has been a modification in this regard, Public

6 Defenders, Prosecuting Attorneys, City Attorneys, Legal Aid

7 Societies may have more than one intern in their program.

8 This is necessary, we feel. The qualification has been

9 introduced that no supervising attorney with less than five

10 years experience may have an intern in his office. This does

11 not apply to O. E. O., Public Defenders, things of this

12 nature that are excluded. We feel that this is an excellent

13 rule. Dean Menard has worked with us a long time. Dean,

14 you are wholly satisfied with rule, are you not?

15 DEAN MENARD: Yes.

16 PRESIDENT MILLER: And it has been received with the

17 recommendation to adopt by unanimous vote.

18 MR. KOONTZ: I move the adoption as amended.

19 MR. HAMILTON: Second.

20 PRESIDENT MILLER: Discussion? (NO RESPONSE) -

21 This is a policy vote. We'll have roll call.

22 SECRETARY: First District.

23 FIRST DISTRICT: Aye.

24 SECRETARY: Second District.

25 SECOND DISTRICT: Aye.

1	SECRETARY: Third District.
2	THIRD DISTRICT: Aye.
3	SECRETARY: Fourth District.
4	FOURTH DISTRICT: Aye.
5	SECRETARY: Fifth District.
6	FIFTH DISTRICT: Aye.
7	SECRETARY: Sixth District.
8	SIXTH DISTRICT: Aye.
9	SECRETARY: Seventh District.
10	SEVENTH DISTRICT: Aye.
11	SECRETARY: Vote is 740 in favor. None opposed.
12	PRESIDENT MILLER: Resolution No. 11 is passed.
13	DEAN MENARD: Mr. President?
14	PRESIDENT MILLER: Yes, Dean.
15	DEAN MENARD: I'll just say that I think the students
16	will deeply appreciate your action here.
17	PRESIDENT MILLER: Thank you, sir. We're happy to be
18	with them.
19	JAMES RISCH: Mr. Chairman, was this by any chance also
20	voted on by the Supreme Court and made active in the State
21	of Idaho?
22	PRESIDENT MILLER: We have every assurance that this
23	thing will be in full force and effect, sir, by the 15th of
24	July. Is that correct, Dean Menard?
25	DEAN MENARD: That's my understanding. I didn't have an

1 exact date, but in July.
2 PRESIDENT MILLER: Due to the amendment of the rules that
3 we here advocate, there was no way to get that to the Supreme
4 Court in final form. I talked with Chief Justice McQuade.
5 He is now leaving. He will be back here in the forepart of
6 July. We are told these rules will be in effect by July 15.
7 MR. RISCH: Thank you.
8 PRESIDENT MILLER: Yes, sir. - Mr. Secretary, is that
9 all the resolutions now that have been reported out with
10 instructions from the Resolutions Committee?
11 SECRETARY: That's all that have been read and moved
12 in favor of.
13 PRESIDENT MILLER: Two resolutions were rejected by the
14 Resolutions Committee. They were Resolution NO. 5 and
15 Resolution No. 12. It is my understanding of our rules of
16 procedure that the Resolutions Committee action upon these
17 is final. That these resolutions can only be called to the
18 floor upon a two-thirds vote of the members in assembly. Is
19 that correct, Mr. Parliamentarian?
20 MR. BENOIT: Yes.
21 FRANK CHALFANT: Mr. Chairman, a point of order.
22 Resolution No. 12 was reported out for action, but not without
23 approval. The other resolution was rejected.
24 PRESIDENT MILLER: Parliamentarian, how do you rule in
25 that situation? It was reported out, "Do not pass." This was

1 my understanding.

2 MR. BENOIT: I would rule, of course, subject to being

3 overruled by the majority of the floor that if the Resolutions

4 Committee put it to the floor but "do not pass", that it not

5 be presented.

6 WAYNE FULLER: Point of order, Mr. Chairman.

7 PRESIDENT MILLER: Yes, Mr. Fuller.

8 MR. FULLER: I think the report out of the Resolutions

9 Committee was that this resolution should be reported out for

10 consideration, but with a recommendation to this body that

11 they do not pass it. In other words, it was reported out to

12 be considered but with the recommendation that this body do

13 not pass it. And I think that's what the Resolutions Commit-

14 tee voted on. Isn't that right and your understanding, Mr.

15 Chalfant?

16 MR. CHALFANT: Yes.

17 MR. FULLER: I stand corrected if I'm wrong about that,

18 but I think that's correct and it should be considered.

19 SECRETARY: I have the report.

20 PRESIDENT MILLER: Why don't you read it.

21 RESOLUTIONS COMMITTEE CHAIRMAN: Now, with this there

22 are two things. Resolution No. 5 was brought up in the

23 Resolutions Committee. It was moved by the Bar President and

24 failed for lack of second. On that, I don't believe there is

25 any need for any action whatsoever by this body at all.

1	Resolution No. 12, which involves Rule 185 of the Supreme
2	Court, was thoroughly discussed in the Resolutions Committee.
3	At that time, a motion was made that this Resolution - It was
4	moved and seconded by the committee that this Resolution be
5	reported out and that we recommend - that is, the Resolutions
6	Committee - that it be not passed. Now, that's my understand-
7	ing of where we were on it. Also at the time we read that
8	resolution on the Thursday morning that this session under-
9	took to begin, you will recall that in view of the action
10	that we took on Resolution 12, we told you we were coming
11	back in with a resolution this morning which we have done
12	and which has been passed.
13	PRESIDENT MILLER: Resolution 13 then was the action
14	taken?
15	RESOLUTIONS COMMITTEE CHAIRMAN: That's right. By the
16	committee.
17	PRESIDENT MILLER: Any further question, then?
18	(NO RESPONSE)
19	PRESIDENT MILLER: Mr. Parliamentarian, I presume there-
20	fore, that the motion before the body is that the recommenda-
21	tion of the committee that it do not pass be submitted.
22	MR. BENOIT: Correct.
23	PRESIDENT MILLER: Is this your understanding? Are we
24	all in accord? - All right. This resolution is a resolution
25	that has been submitted and duly published. It provides

1	generally for a delegate system. I'm sure you're all aware
2	of it. It does affect policy. The chair rules the unit rule
3	will apply. The motion before you then is that it do not pass.
4	Will you call the roll, please, Mr. Secretary.
5	MR. ACE: May we have some discussion, please?
6	PRESIDENT MILLER: Yes, you may.
7	MR. ACE: To clarify it, if you vote yes, it means in
8	effect you're voting no, against the resolution?
9	PRESIDENT MILLER: If you are voting yes, you are in
10	effect ratifying the action taken by the Resolutions Committee.
11	MR. BENOIT: And rejecting the resolution.
12	PRESIDENT MILLER: Right. The resolution, basically,
13	is not for - Go ahead, please.
14	MR. CHALFANT: I don't see how you can say the resolution
15	is not before us. I think it's presented with the recommen-
16	dation that it be not passed.
17	PRESIDENT MILLER: Well, you're correct in that. My
18	point is that the motion before the floor is the recommenda-
19	tion of the committee.
20	MR. ACE: I think the question before the floor is
21	whether or not it shall pass.
22	MR. CHALFANT: The question before the floor is whether
23	or not the Resolutions Committee action should be affirmed
24	here.
25	MR. ACE: Well, that's kind of the long way around.

(LAUGHTER)

MR. BENOIT: The motion is that the action of the Reso-

lutions Committee rejecting the resolution be affirmed. So

if you vote yes, you are saying the resolution is not adopted.

That may be reversed, but that's what you're doing.

PRESIDENT MILLER: All right. Now - Go ahead.

MR. DALRY: I think it might be premature for this body

to adopt this resolution, but I think it would also be a good

case for the right of each individual of the Idaho State Bar,

to be prevented from speaking his feelings on the problems

presented by the resolution. I think it would be wise for

this group to submit it to the general membership of the

Idaho State Bar under Rule 185, the membership referendum,

and I think it would be wise for this group to state that it

should be submitted by the middle of July for return, summari-

zation publication in the Advocate by the middle of August.

I think it would be a mistake at this time to forget the

problem. You're only going to accentuate the existing prob-

lem that is multiplying rapidly, and that is fragmentation of

the Idaho State Bar.

PRESIDENT MILLER: Any further discussion? - Yes, Mr.

Thomas.

MR. THOMAS: Mr. Chairman. Gene Thomas, Boise. I feel

that Resolution 13 takes the very best of the thoughts that

Jim Lynch had as the author of this resolution, because it

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1	provides continuity. It strengthens the District Bar Presi-
2	dents in their organization. It provides funding for their
3	meeting. In my judgment, in No. 13, this convention has
4	effectively taken the critique that's implicit in this
5	resolution that is before you, and has taken the best of it,
6	and in adopting it as we have, this convention has now taken
7	a position on the matter. And I think that the draftsman -
8	I presume upon his judgment, because he's not here today -
9	but I think the draftsman would agree that No. 13 with the
10	strengthening of the Bar Presidents and providing of pre-
11	legislative and legislative sessions, and the probing of the
12	Bar for consensus, is a very excellent resolution and does
13	indeed accomplish the purposes that this one was intended to
14	accomplish. Therefore, first this should be defeated,
15	because I think we have already done the right thing in the
16	area. But secondly, it should be defeated, because we have
17	already passed a resolution which this is inconsistent with,
18	this very morning. So I hope we will in one fashion or
19	another not pass it here.
20	UNIDENTIFIED: Question.
21	PRESIDENT MILLER: The question has been called for.
22	It will be a unit vote.
23	MR. THOMAS: What does the yes stand for now, Mr.
24	President?
25	PRESIDENT MILLER: Yes stands for the affirmation of the

1 Resolutions Committee report that this should not be passed.

2 SECRETARY: First District.

3 FIRST DISTRICT: First District votes yes.

4 SECRETARY: Second District.

5 SECOND DISTRICT: Aye.

6 SECRETARY: Third District.

7 THIRD DISTRICT: No.

8 SECRETARY: Fourth District.

9 FOURTH DISTRICT: No.

10 SECRETARY: Fifth District.

11 FIFTH DISTRICT: Yes.

12 SECRETARY: Sixth District.

13 SIXTH DISTRICT: Yes.

14 SECRETARY: Seventh District.

15 SEVENTH DISTRICT: Aye.

16 MR. FULLER: While the Secretary is figuring up the votes.

17 Wayne Fuller from the Third District. Our Bar Association

18 considered this matter and instructed us to vote for this

19 resolution and in this particular case, vote no, to try to

20 bring it out to the floor. Our Bar Association thought this

21 would admit that it would bring about more participation and

22 interest by the Bar Association in general. That's the reason

23 they instructed us to vote the way we did. However, I'm satis-

24 fied that when I go back to my District Bar and report to

25 them that we had Resolution 13 passed, that they will feel

1	that this brings about what No. 12 had been trying to do.
2	PRESIDENT MILLER: Let's get the vote here.
3	SECRETARY: The vote is 405 in favor of the resolution,
4	335 opposed.
5	PRESIDENT MILLER: You mean 405 in support of the
6	Resolutions Committee recommendation.
7	SECRETARY: Right.
8	PRESIDENT MILLER: Therefore, the recommendation of the
9	committee is passed, sustained. Therefore, the resolution
10	is not before the committee.
11	This concludes the resolutions. Any further business,
12	Mr. Secretary, to come before this body?
13	SECRETARY: None.
14	UNIDENTIFIED: I move we adjourn.
15	PRESIDENT MILLER: I've been your President for two
16	years, three months, fourteen minutes and three hours.
17	(LAUGHTER)
18	MR. BENOIT: Mr. Chairman, before you do so, I would
19	like to move that the group here assembled commend the
20	present commissioners for the outstanding job they have done
21	and the many hours they have put in for our benefit with so
22	much pay.
23	PRESIDENT MILLER: Thank you, Mr. Benoit.
24	MR. ACE: Second.
25	(APPLAUSE)

1 PRESIDENT MILLER: Like my good friend, Lamont Jones

2 said, you stand here pretty humbly at this time.

3 MR. BENOIT: Can't we vote on that?

4 (LAUGHTER)

5 PRESIDENT MILLER: If there be an area where we as

6 commissioners can take pride in this year's accomplishments,

7 I think it's in two areas. We have strengthened considerably

8 the areas of discipline in our Bar, and the procedures on

9 discipline. We have strengthened, in our opinion, and time

10 will only tell, the central administrative office of this

11 Bar. We're proud of our accomplishments there. It gives me

12 a great deal of pleasure at this time to introduce to you,

13 Mr. Gene Thomas, your new President of the Idaho State Bar.

14 I turn this meeting over to him and to Mr. John Bangston, the

15 Commissioner from North Idaho.

16 (APPLAUSE)

17 MR. THOMAS: Let the minutes of this meeting show that

18 the ovation that just occurred was for our President and still

19 our President at this instant, Gene Miller. And on behalf

20 of this meeting, let the minutes reflect that we are deeply

21 in your debt, Gene. You have served with distinction and

22 integrity, and we thank you. We will show our appreciation

23 by continuing to rely upon your skills and talents and

24 loyalty.

25 (LAUGHTER)

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MR. THOMAS: Thanks again, Gene Miller.

(APPLAUSE)

PRESIDENT MILLER: Is there anything further to come

before the convention? - Otherwise, the chair will enter-

tain a motion to adjourn.

MR. BENOIT: So move.

MR. HAMILTON: Second.

PRESIDENT MILLER: All in favor signify by saying aye.

MEMBERS OF ASSEMBLY: Aye.

PRESIDENT MILLER: Opposed?

(NO RESPONSE)

PRESIDENT MILLER: We stand adjourned.

(Whereupon, at twelve o'clock noon, the annual

meeting of the Idaho State Bar Association adjourned)

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REPORTER'S CERTIFICATE

STATE OF IDAHO)
) ss.
County of Gooding)

I, Lodema K. Smith, a Notary Public in and for the State of Idaho, do hereby certify:

That said 1971 Annual Idaho State Bar Association

meeting was taken down by me in shorthand at the time and

place therein named, and thereafter reduced to typewriting;

that the foregoing transcript contains a true record of the

proceedings had.

WITNESS MY HAND AND SEAL this 6th day of December, 1971

Notary Public for the State of Idaho,
residing at Wendell, Idaho.