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Bench and Bar

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BENCH AND BAR

A department devoted to the activities of the members of the Bench and Bar, and other allied groups. Communications are requested from officers and committee members of all agencies engaged in, or connected with, the administration of justice. Local bar associations are invited to report their activities through this department. Please address all communications intended for this department to LESLIE J AYER, ASSOCIATE EDITOR, WASHINGTON LAW REVIEW, UNIVERSITY OF WASHINGTON, SEATTLE, WASHINGTON.

JUDICIAL COUNCIL

The Judicial Council of the State of Washington has held a number of meetings at Olympia and Seattle this fall for the purpose of concluding the work of the biennium, and making its recommendations to the Governor and the Legislature. The second report of the Judicial Council of the State of Washington, January 1929, which is just off the press, shows that the Judicial Council has worked energetically during the biennium on the following matters:

(a) Survey of the judicial business of the state, by virtue of a resolution of the legislature, with a view to a possible re-districting of the judicial districts of the state.

(b) Rules of practice and procedure.

(c) Relief of the Supreme Court.

As a result of the survey of the judicial business, the details of which are fully set forth in the printed report referred to, the Council finds that a re-districting is not necessary and is of the further opinion that "the present number of whole judges of the State of Washington is sufficient to despatch the judicial business of the state, if proper means are afforded to expeditiously transfer the judges from one court to another as the business of the courts requires." To this end the Council recommends that the legislature require the various superior courts and all county officers having any connection with judicial business periodically to furnish to the Council full information concerning the state of the judicial business in the respective counties, in order that the Council may transmit such information to the Governor, who under the constitution (Article IV Sec. 7) is authorized to assign judges to duty in other counties where relief is necessary

With respect to rules of practice and procedure the Council has advised but two changes. It has recommended that Rule 8 (140 Wash. p. xi) permitting the taking of the deposition of the opposing party before trial, be amended so as to prevent the taking of the deposition "until the expiration of twenty days after the service of summons upon such defendant," provided that it may be taken prior to such time upon order of the court on good cause shown. The object of this amendment is to prevent the taking of the deposition immediately after suit is commenced and before the defendant and his counsel have sufficient time to prepare properly for the taking of the deposition. The rule was recommended as the result of complaints re-

ceived from all parts of the state that the existing rule was susceptible of abuse and was being abused. The other rule recommended by the Council is one relating to criminal cases and requiring the defendant to furnish a list of witnesses which he intends to use just as the prosecutor is now required to furnish a list of witnesses which he intends to use.

The first of the recommended rules was adopted by the Supreme Court on the 22nd day of November, 1928, effective March 15, 1929. The second recommended rule has not yet been acted upon by the court.

With respect to these recommended rules the Council during the last two years has made a sincere and conscientious effort to maintain close cooperation with the various organized bar associations of the state. The change to Rule 8 is a result determined upon by the Council after consideration of responses from most of the bar associations of the state to a questionnaire directed to them by the Council.

The subject of relief of the Supreme Court is one to which the Council has devoted a great deal of time during the last two years. This was done in recognition of the fact that every judge of the Supreme Court under present conditions is required to consider a much greater number of cases and to write many more opinions than is required on the average of other appellate judges throughout the country. The individual judges of the Supreme Court are each required to write on the average of seventy-five or more opinions a year, which, counting out holidays and days spent on the bench means that but a short time is available for the study of the record in each case, and the preparation of an opinion, especially since much time is also consumed by each judge in the study of the the approximate six hundred opinions prepared in the aggregate by the other eight judges during the same year. In view of these conditions the Council considered a number of plans for relief which may be stated as follows:

1. Creation of additional judges for the Supreme Court or the addition of another department thereto.
2. The creation of Supreme Court Commissioners.
3. The establishment of an intermediate appellate court.
4. The restriction of the judicial amount in controversy.
5. Change in the method of appeal without raising the jurisdictional amount.

After full consideration of the subject by the Council it was determined that the Council recommend as a temporary measure for relief that four commissioners be appointed to assist the Supreme Court, and that, as a measure for permanent relief, a constitutional amendment be recommended establishing an intermediate appellate court. This latter recommendation was made after a careful study of the intermediate appellate courts the country over and an extensive correspondence with over one hundred leading lawyers and judges in all states of the Union having intermediate appellate courts.

A form of the bill to carry into effect the recommendation with respect to Supreme Court Commissioners and a tentative draft of a constitutional amendment creating an intermediate appellate court is set forth verbatim in the printed report of the Council above referred to. The

intermediate court plan adopted by the Council is substantially the plan now in force in California.

The second report of the Council will shortly be mailed to each member of the Washington State Bar Association. Copies of this report may be obtained by others upon application to the Secretary.

JUDSON F FALKNER, *Secretary*.

CHANGES IN THE PERSONNEL OF THE SUPREME COURT
OF THE STATE OF WASHINGTON

WILLIAM D. ASKREN

On November 22, 1928, William D. Askren, associate justice of the Supreme Court of Washington, resigned, effective December 1, 1928, after having served on the Supreme Court since January 1925.

Judge Askren was born at Mt. Ayr, Iowa, on October 1, 1885, and was educated in the grammar and high schools at Mt. Ayr. He was admitted to practice law in the State of Washington in 1909, entering the practice at Tacoma. He was Deputy Prosecuting Attorney of Pierce County, 1913-14, and Prosecuting Attorney 1919-20. He served as Judge of the Superior Court of Pierce County from 1921-24 and was elected Associate Justice of the Supreme Court in the election of 1924, commencing his duties in January 1925.

Since his resignation Judge Askren has announced that he has become a member of the Seattle law firm of Allen, Froude, Hilén & Askren.

WILLIAM J. MILLARD

On the resignation of Associate Justice William B. Askren, William J. Millard was appointed by Governor Hartley to be justice of the Supreme Court to fill the vacancy created.

Mr. Millard was born in Bismarck, Missouri, forty-five years ago. He studied law at George Washington University Washington, D. C. He graduated in 1910 and was admitted to the bar that same year. Four years later he moved to Seattle where he practiced law until 1917 when he moved to Olympia. For the last ten years he has been secretary of the Washington State Bar Association. In 1919 he was appointed state law librarian at Olympia and was acting in that capacity at the time of his appointment to the Supreme Court.

ELECTION OF OFFICERS
TACOMA BAR ASSOCIATION

At the annual meeting of the Tacoma Bar Association, which includes all lawyers in Pierce County held on October 27th at Tacoma, the following officers were elected for the ensuing year:

PresidentPERCY P BRUSH
Vice-PresidentL. R. BONNEVILLE
Secretary-TreasurerW. G. HEINLY

Trustees:

J. CHARLES DENNIS ROBERT ABEL
A. O. BURMEISTER HERBERT COCHRAN
STUART H. ELLIOTT

W. S. HEINLY, *Secretary*.