Report of the President

V. O. Nichoson
ANNUAL MEETING

The government has its innings also, and takes—and believe me, they are beginning to wonder if instead of spending quite so much time with their noses right to their professional problems, that their citizenship shouldn’t come in for ten, fifteen, or twenty per cent of their time.

If that be true of doctors, how much more true it should be of lawyers.

I am certainly proud of the members of the profession that have served in the state government. That is especially true this last time I have been in Olympia, and in this last session I became especially acquainted with a lot of our attorney members of the Legislature, and I certainly feel that they accredited themselves well. They served very fine. They are taking the kind of unselfish interest—many of them—that is a credit to our profession.

I sincerely hope that out of this session of the state Bar will come some new ideas for developing better programs to improve the administration of our courts, to improve for the public the practice of the law, to elevate the standards for our profession, and that out of this session may come new conceptions of the place of the lawyer in government.

And I want to invite again each and every one of you for your constructive criticism from time to time about state government. Lots of people are loath to come in and lay a criticism on my desk—even though they feel it very deeply. They seem to feel that if I should not like it, that maybe sometime I might do them a dirty trick. Frankly, I feel the other way about it. I am more than happy to have called to my attention weaknesses in the fabric of state government, that we may try to do something about it—for we know that we have to answer to the people for those things that do not function satisfactorily, and we like to know where the weak spots are. All too often we live in a kind of atmosphere where we don’t get the criticism. We don’t hear about the things that are wrong until it is too late to do much about it, and for that reason we welcome your suggestions and your help.

It has been a privilege to have a chance to meet with you, and on behalf of the people of the state, I extend greetings and best wishes.

REPORT OF THE PRESIDENT

BY V. O. NICHOSON

I am going to relate to you as simply and with as few words as possible some of the things I have learned the past year about what goes on in bar associations behind the “iron curtain.”
Until I assumed the office of President one year ago, my principal contact with both the Washington State and American Bars was the forwarding of my check in payment of annual dues. I was more or less indifferent as to what went on and who did it. I was aware that the American Bar Association, through the warnings of Frank Holman, was alerting American on the pending Genocide Pact. Tracy Griffin was telling us in a most forceful and, I think, effective manner what Joe Stalin had said and the threat of Communism to our democratic way of life.

My utmost respect goes out to those few leaders of our American society who give of their time and talent to actively and militantly voice objection to movements believed to threaten the security of our people. There is a crying need for such men. And Bar Association groups are ideal sounding boards for these timely warnings. I have come to realize, however, that the forces promoting and opposing political and social movements do not necessarily spring from organizations such as ours.

So I have decided to come before you today, neither as advocate nor defender of any political or social movement. I am merely reporting to you some of the things I have learned and what I believe lawyers generally should know about their own unions.

First of all, I will tell you something about the American Bar Association and what it is doing. Some of its activities are carried on by what are known as sections. Referring to a partial list only of these, we find them doing constructive work in such fields as "Administrative Law," "Corporate Banking and Business Law," "Insurance Law," "International Comparative Law," "Labor Relations," "Public Utilities Law," "Real Property, Probate and Trust Law," and "Taxation."

The purpose of each section is to further the development within each respective field of law, to formulate and extend the study of each, to cooperate in attempting uniformity with respect to both legislation and administration, and to simplify and improve the application of justice in each field of law.

There are also seventeen standing committees of the American Bar Association. I will make reference to two only. One is that of "Federal Judiciary." This Committee has a membership of eleven, one from each of the ten Federal Judicial Circuits and one from the District of Columbia. The Committee undertakes to recommend to the President, through the Attorney General, the names of one or more candidates for each vacancy occurring in any of the federal courts. After a nomination has been made by the President, the Committee, in response to
requests from the Senate Judiciary Committee, makes recommendations as to the confirmation or rejection of the nominee. The Committee member in each circuit is primarily responsible for gathering information as to each proposed nominee from his circuit. The information so collected is processed through the Committee, and the chairman then communicates to the Attorney General and the Senate Judiciary Committee the Committee's findings and recommendations. This Committee has played a vital part in the selection of federal judges. The Committee also has power to promote or oppose proposals to increase or reduce the number of judges in any federal judicial circuit or district.

I will name but one more standing committee—that on State Legislation. The objective of this Committee is to promote the passage of uniform laws as drafted by the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association. In 1949, there were ninety-seven introduction of uniform acts in the legislatures of the various states which met that year. Forty-three of the ninety-seven were successful. During 1950, seven legislatures have been or will be in general session, and the committee men in each of these states have been, and are, actively engaged in preparing legislation for the adoption of uniform laws in their respective states.

I will now briefly discuss a few of the fifteen special committees of the American Bar Association.

One of the special committees was appointed in 1943 to consider the desirability of a proposal that the Court of Claims be recast into a trial court and an appellate court, and that the Federal Rules of Civil Procedure be made applicable to the Court of Claims in lieu of its present rules. This Committee has made several reports, none of which have been adopted. It can be expected, however, that before many years, the Court of Claims through the work of this special committee, will be a much more usable tool for the carrying on of legal work by lawyers than it is at the present time.

Another rather unusual special committee of the American Bar Association is entitled "Propriety of Members of the Judiciary Appearing and Testifying in Civil and Criminal Cases." This Committee was organized pursuant to a resolution adopted by the Assembly and by the House of Delegates, at the annual meeting of the Association in September, 1949. I merely mention this particular committee so that you may know, in a general way, that the American Bar officially is giving attention to matters of public interest and importance.

Enough has already been said to give you a glimpse of the extent and
variety of work being done under the leadership of your management in the American Bar Association. The work of the sections, special and standing committees, as well as in the Assembly, the House of Delegates, and the American Law Institute, is being performed unselfishly by a group of busy men. It is a contribution lawyers are making to simplify laws and quicken the tempo of procedure, to the end that civil rights may be more adequately protected and speedy justice attained. Many of the members of these various groups are lawyers of this state, who work hard and give unselfishly of their time and talent to the public need. Financial gain is not their motive. These men find simple joy and satisfaction in helping remold and perfect the law, so that social and economic justice may be had by all. They are the kind of martyrs to a cause of which little is written and practically nothing said. With a world full of social reformers and politicians heralding the cause of the common man, few pause to consider, and fewer still really begrudge, the lawyer of his lot, which, traditionally, is "To render valuable public service, without ostentation."

But this is not all of the work done through your management of the American Bar Association. I have referred but briefly to the Assembly and House of Delegates. The dissemination of pamphlets and tracts on citizenship, suggestions for the observance of Constitution Week, and other publicity of this character is well known, not only to lawyers but to the public as a whole.

The chairman of the American Bar Association's Committee on Peace and War Through United Nations is none other than our fellow member, Alfred J Schweppe, who appeared with other members of his Committee, upon invitation, before a United States Senate Committee on January 24 of this year, for further discussion of the Genocide Convention. Many lawyers of this state have many years of service as members of the Assembly and House of Delegates, and have served on important committees and sections of the American Bar Association. They are too numerous to mention in this report, but most of them are known to you. Indeed, the work being done by you, through the American Bar, is too monumental for me to even attempt to cover. It is an important work, which needs to be done. It is my hope that every lawyer of our state will become, if he is not already so, a member of the American Bar. Its objectives and accomplishments, so dear to the heart of every lawyer, are something of which we may be proud. As stockholders of America, our duty to give active support to the American Bar is a challenge each lawyer should accept. It is effectively doing a
ANNUAL MEETING

real job. The American Bar is working constantly to keep its house in order. May I quote from Justice Robert H. Jackson: "Today any profession that neglects to put [and keep] its own house in order, may find it being dusted out by unappreciative and unfriendly hands." As members of our honored profession, we should not further neglect our plain duty, which is simply to give the American Bar our wholehearted support.

Unlike the American Bar, our Washington State Bar is integrated by law. Membership in the American Bar is voluntary. In this state, active membership in the integrated bar is a condition precedent to the right to practice law. You are, therefore, by virtue of the state law, a stockholder in this organization and entitled to a report.

Much of what I am going to say is to be found in one or the other of three compilations. One is popularly referred to as "Pierce's Code," another "Remington's Revised Statutes of Washington," a third, of recent origin, "Revised Statutes of Washington."

Those who formulate the policy and are responsible for carrying on the work of the state Bar are the six District Governors and the President. The stockholders living in each congressional district of the state elect from their own membership every three years, by secret ballot, a District Governor. This is purely a democratic process—absolutely fair to everyone—and has resulted in the selection of most capable men to serve as District Governors. Some mystery is attached to the method adopted by the Board of Governors in the selection of a President. At any rate, all the latter does is to preside at the meetings of the Board and reply to much of the misdirected correspondence. He is in office but one year, and by the time he is beginning to feel at home, the members of the Board of Governors—so it is rumored—again flip the coin or shake the dice, and his successor is named.

The Board of Governors—of which the President is ex officio member—meets monthly. Usually each session requires a full day. Under the direction of our Executive Secretary, there has been prepared at headquarters, 501 Third Avenue, Seattle, an agenda which is sent to each member of the Board and the President several days in advance of the meeting, presenting a list of subjects, about as follows:

1. Admissions to the Bar. Under this head the agenda may name certain attorneys whose applications for reinstatement or readmission are to be considered. We may be advised that certain named applicant attorneys or law clerks desire to appear personally and present to the Board questions concerning their respective applications; matters con-
cerning the increase from three to four Bar examiners; reports of the Committee of Bar Examiners.

2. Under the heading of Discipline and Disbarment, copies of reports of local administrative committees are made a part of the agenda for study and disposition. The same can be said of the Trial Committee reports and objections filed thereto. The Board refers cases ready for trial and reads and considers reports of counsel. Under this head comes the rare and unpleasant duty of administering reprimands.

3. Under Unlawful Practice, the Board is brought up to date on the progress of pending litigation. Reports or suggestions from the Chairman of the Committee on Unlawful Practice are considered and disposed of.

4. Matters such as the consideration of a state directory for lawyers, amendments of rules, correspondence, and the examination of financial reports—these and many kindred matters all go to keep the Board fully occupied until 5:00 to 5:30 in the afternoon. We must adjourn in time for the members to spruce up a bit, preparatory to the cocktail hour and evening banquet usually tendered by the local Bar.

One year ago our State Association had three Bar Examiners. Now we have four. Examinations for admission are conducted twice a year—January and July. Sixty problems or questions are submitted at each examination. These are prepared by the Bar Examiners. I have taken time this past year to examine a set of questions, and I want to now publicly confess my great pleasure at being on the inside looking out instead of on the outside looking in! The number of applicants for admission to the Bar has increased each year. After considerable study and much discussion, the Board of Governors this year appointed an additional Bar Examiner.

To insure absolute fairness as between the various applicants, the Bar Examiners are given merely the completed bar examination books, on the front cover of which each applicant has written his number. The number is given to him on the first morning of the examination, by Miss Clydene Morris, and a slip of paper containing his number and name is placed in a sealed envelope. The Bar Examiners never see these or have them in their possession. They go entirely according to numbers. At no time does an examiner possess knowledge as to the identity of any applicant.

Dean Sheldon D. Elliott of the University of Southern California Law School, in May, 1949, prepared a report concerning bar examinations, a portion of which may be of interest to you:
The average-size Examining Board is between five and six members, five being the most common number. Fourteen states have boards of three members. Three states, namely, Nebraska, Utah, and Vermont, have six members. Six states, namely, Arkansas, California, Delaware, Minnesota, Nevada, and North Carolina, have seven members, and six states, namely, Colorado, District of Columbia, Florida, Louisiana, Oklahoma, and Oregon, have nine members. Ohio has ten members and Connecticut fifteen.

Although New York has only three Examining Board Members, each of them receives $10,300 annual salary, and there are two full-time clerks in addition to the Board of Bar Examiners, as well as a number of part-time legal assistants who do the grading. New York has six legal assistants to aid in drafting, as well as the grading, of the customary type of long-form essay questions, and also two to four statistical assistants to grade "yes-no" answers. The latter are not used in Washington.

The annual compensation to each examiner in this state is $1,000, plus actual traveling expenses.

Having mentioned one item of expense, I might as well tell you that during the entire year I received but one letter complaining of the amount of annual dues for active members, which as you know is $10. Let me give you the following information, made available to me through reports coming to our administrative office, on the subject of dues. This item is constantly under change throughout the various states, but the most recent picture made available through these reports is as follows:

In twenty-two states where integrated bars exist, Washington is one of twelve having annual dues of $10. One such bar has annual dues of $15. On the voluntary State Bar Associations, one has annual dues of $18, two of $15, one of $12.50, four of $12, and five of $10. Of the forty-six states covered by these reports, Washington is one of seventeen having annual membership dues of $10.

This state, as you can see, rates well as compared to other states, both as to modest sums paid as annual dues and over-all cost of handling and conducting the business of admissions to practice.

The universal theory upon which state Bars proceed in matters of disbarment and discipline is to give to the accused lawyer utmost protection, not only in safeguarding his legal rights, but also in screening the entire case from the public. Lawyers, like laymen, may be unjustly accused. If a lawyer's greatest asset is his legal ability, certainly next in line is his reputation for honesty, integrity, and dependability.
should, at all times, be protected and preserved. Cases decided by the Supreme Court, involving disbarment and discipline, must of course become known throughout the published reports. While this branch of the work processed through the Board of Governors requires a large part of the time spent in the business of the Bar, it is a part about which most of you hear little, if anything. Our system of making investigations, and the actual trial cases, is not perfect. Lawyers have complained, in certain isolated cases, of our failure to keep matters of this kind within the knowledge of the official family. But, by and large, all agencies, including local Bar committees, have cooperated to give to the accused lawyer his full measure of protection.

The official position of your Board of Governors concerning the new Code is very ably set forth in the report of your Advisory Code Committee, printed in full in the July, 1950, issue of the Washington State Bar News.

Briefly, the position of your Board of Governors is that the Bancroft-Whitney Company of San Francisco, lawbook publishers, should be directed to immediately proceed with the publication of a new Code, using the title arrangement and perpetual decimal system formulated by the Statutory State Code Committee. This Code would simply print the laws of a general and permanent nature as passed by the Legislature, and would be annotated by the editorial staff of the publishers.

At the close of the 1949 legislative session, Bancroft-Whitney stood ready to proceed at once with the preparation of such a Code, upon condition, however, that all state agencies abandon any further attempt for recodification of the entire Code. The thinking of your Board members is that, due to the apparent dissatisfaction of the quality of work done in the way of revision under the direction of the Statutory Code Committee, it would be better to get a fresh start by first printing the law as the Legislature adopted it, making use of the new and admittedly improved title arrangement and perpetual decimal system. If such a code were printed, revision could then be made a section at a time. Much of the work on revision, already done, could be utilized. As completed, the newly revised sections would be circularized among lawyers for examination, criticism, and suggested improvements. Those sections found to be generally satisfactory would be submitted to the next biennial session of the Legislature for consideration and possible adoption.

The Board discovered that experience in the revision of federal laws, as well as attempts by various states, to revise at one time the entire
body of the law had met with failure. The Board concluded it was time to abandon such an ambitious enterprise and to start at the bottom, using, however, the parts on arrangement and numbering, which are admittedly good, and at a later date salvaging as much as possible of the work of revision already done.

The Board of Governors, as you know, has no authority to provide a new Code. An Official Code must be one adopted by the Legislature. It is, therefore, apparent that all the state Bar, through its Board of Governors and special committees, can do is to give consideration to the needs of the lawyers and other code users, and recommend to the Legislature what, in its judgment, should be the course to follow. The resolution adopted by the Board of Governors, first printed in the October, 1949, issue of the Washington State Bar News, which I repeat you will find reprinted in full in the Washington State Bar News for July, 1950, is a comprehensive explanation and rather complete coverage of the position of the Board of Governors relating to this subject. This resolution was submitted to the proper legislative group for consideration.

As you already know, the Legislature adopted at its last special session held in July of this year, and the Governor signed Amended House Bill No. 13. This bill adopted the Code as prepared after revision by the Statutory Code Committee, as the Revised Code of Washington. It was passed as an emergency measure. It says that the provisions of the Code shall be prima facie the laws of this state and that, where the provisions of the Revised Code of Washington are in conflict with the actual legislative enactment, the latter will prevail. No provision is made for printing the Code. This bill was adopted by a nearly unanimous vote of the Legislature. Every lawyer member of the special session voted in favor of Amended House Bill No. 13.

Now, in this connection I want to read a letter I received from the chairman of the Legislative Council Subcommittee on the Revised Code. I think I should do that because while we are taking no position on the thing at all, I do want to report to you what is, I think, a very explanatory letter, and in fact, request was made by the writer of the letter that I do read this.

The letter is dated August 9, 1950, and is addressed to me as President of the Washington State Bar Association.

Dear Sir:

The Legislative Council Subcommittee on the Revised Code has secured the services of Attorney Robert D. Williams of Seattle and Olympia to assist in making further recommendations to the 1951 session of the
Legislature relative to the Revised Code. Mr. Williams will receive criticisms and suggestions, and generally will cooperate with members of the Judiciary and members of the Bar and other interested parties in seeking to put the revision in the best possible condition.

All communications relative to this matter should be addressed to Chairman, Legislative Council Subcommittee on the Revised Code, Legislative Council, Legislative Building, Olympia, Washington.

The Bancroft-Whitney Company has assured the Committee that publication of the Revision can begin immediately after the 1951 session of the Legislature. This Code would include the 1951 session laws.

The Legislative Council Subcommittee on the Revised Code plans to recommend to the 1951 session of the Legislature the establishment of a Code Revisor's office, part of whose function will be to keep the Code current and to make further recommendations for such changes as are deemed necessary or advisable.

At this time the Committee has no intention of recommending that the 1951 session of the Legislature enact any part of the revision as the law.

The Committee solicits the cooperation of the Bar and asks that the members thereof be advised of the contents of this letter.

Yours very truly,

Bernard J. Gallagher

Chairman, Legislative Council Subcommittee on the Revised Code

In this report it is not my function, nor do I intend, to personally uphold or defend either school of thought as to the method best designed to bring about the speedy preparation and printing of the laws of the state in dependable form, fully annotated, and acceptable to the lawyers and other users of a much-needed new Code. I am merely reporting to you the present status of a subject concerning which the thinking of lawyers of this state is, at present, in unfortunate conflict.

Progress has been made in our efforts to curb the unauthorized practice of law. George E Mathieu, chairman, and other members of our Washington State Bar Association Committee on Unauthorized Practice of Law, have done and are doing an excellent job.

Plans are in the making for adding to the required curricula of each law school of the state, instruction on the subject of "unauthorized practice" for each student in such schools. The Board of Bar Examiners have made public announcement that they would feel free to interrogate on the subject of unauthorized practice in future Washington State Bar examinations.

Our state Committee on Unauthorized Practice advocated public prosecution of alleged violators of our Unauthorized Law Practice Act. County prosecutors have cooperated in splendid fashion. Several con-
victions for unauthorized practice have been obtained.

Questionnaires have been sent to all Local Bar Unauthorized Practice Committees, designed to obtain more coördination between state and local groups.

The case of *Washington State Bar Association vs. Washington Association of Realtors et al.*, No. 35236, pending in the Superior Court for Yakima County, finally was tried and got down to the questions every lawyer wants answered:

(a) Has the section of our statute including the element "for compensation," in its definition of what constitutes the practice of law, been repealed; and

(b) If not, does a realtor who draws necessary documents for closing a buy-and-sell agreement in his office, receive compensation therefor, where no direct charge is made for such service, but the realtor does receive his usual realtor’s commission for making the sale.

The case proceeded to trial against the defendant realtor, who freely admitted that he prepared such documents for closing sales made through his office, in cases where the parties had no attorneys and consented to the preparation of such documents, without charge, by his office. This rather fortunate turn of events submitted the two legal questions squarely to the Court for decision.

Superior Court Judge Ian R. MacIver, in a twenty-five-page opinion, held for the realtor and against the State Bar Association on both counts. This test case will be appealed. Actually we took that action today in our Board meeting. It can reasonably be assumed that, should the Supreme Court affirm this decision, measures will be taken to obtain, if possible, remedial legislation at the hands of the state Legislature.

The position taken by your Board of Governors on the proposed Junior Bar is as follows:

There are those—principally from Seattle and Tacoma—who are interested in the creation of a Junior Bar. The Board of Governors has not looked with favor upon the idea. It feels the Junior Bar has a place in the American Bar—a voluntary organization—as well as in states where membership is on a purely voluntary basis. However, in this state, every active lawyer, young and old, must of necessity be a member of our State Bar Association. To organize officially a Junior Bar here would have the effect, in the opinion of the Board, of weakening our State Bar Association. The lawyers of this state should be and remain united. State and local Bar committees are now being staffed, in
large measure, by members of the Bar under thirty-six years of age. No lawyer would ever discourage youthful ambition. This, however, is not a question of who can best do a given job. Here in the Evergreen State the law compels all active lawyers to unite into a single association to carry on the activities and business of the legal profession.

This state has joined with other state Bar groups in sponsoring a public relations program. This committee, by the way, is made up of the younger members of the Bar, under the leadership of Leo A. McGavick. I happen to have in my files a copy of the report bearing date May 24, 1950, from William C. Speidel, Jr., to Leo McGavick, Chairman, which to me shows progress. At the risk of being charged with infringement of copyright, I am taking the liberty to quote from that report, as follows:

This will bring you up to date on my activities in connection with the Public Relations Program of the Washington State Bar Association.

1. During the past few months I have collected all public relations material available from all bar associations in the country. Most bar associations which have gone into the matter at any length have a much greater budget than we have allowed ourselves in this state, but I believe we have evolved a workable and effective program within the budget.

2. A publicity primer has been prepared showing why a bar association needs a public relations program and the mechanics of how that program can be put over.

3. In addition there is now under preparation a series of fifty-two newspaper articles describing Washington law for laymen. These articles will describe the lien law, probate law, etc. I plan to take these articles around the state this summer, visit with local public relations committee chairman and the local editor in an effort to have them published in our papers as a public service by the bar association.

4. A questionnaire has been prepared to be sent to all attorneys in the state asking them to participate in the formation of a continued public relations program. (See sample.)

5. Some idea of the value of our public relations may be derived from the fact that the article on the program which ran in the Washington State Bar News has elicited inquiries from all over the country for more details to help them in their program.

There is much more I would like to report, but time here will not permit. Mention of what is being done in our association is most ably reported in the Washington State Bar News and the State Bar Journal.

In conclusion, may I be permitted the observation that, traditionally, the lawyers of this state, like lawyers everywhere, are just ordinary, plain, garden variety of men and women. A majority have suffered the
grueling experience of preparing for the State Bar Examination—for three days they have pondered the questions and recorded their guesses—many have then spent sleepless nights until notified of their success. Others of us belong to that honored group of elder statesmen—those almost legendary figures admitted to practice law in this pioneer state on motion. Regardless of how we were admitted, all of us are now bound together by virtue of state law We are a united group. Some of us have militant views—we are crusaders at heart, we demand dynamic leadership. Others of us are more retiring and peace-loving. We shy away from controversial issues. By nature we are docile, meek, and apologetic. These are factors which make apparent to all of us the need for organization. The Washington Integrated Bar Act has provided for our organization a representative form of government. It is democratic. It is free from most of the vices that infest many other groups. It should be. It was designed and created by lawyers—those who by training and tradition are best suited to build an edifice devoted not only to business management of the legal fraternity, but to conservative, constructive, and thoughtful leadership in the battle for the preservation and improvement of justice and equality among men.

The Washington State Bar is your organization. This is your convention. Your managers, the Board of Governors, and the Convention Committee, have attempted to provide for you a convention program both instructive and interesting. I am sure your governing board members hope for maximum attendance, not only for the institute, but afternoon sessions as well. I urge you to attend our general afternoon sessions where more detailed reports on your business will be given and discussed.

**REPORT OF COMMITTEE ON INSTITUTIONS AND JUVENILE DELINQUENCY**

**By Ronald R. Hull**

The Committee on Juvenile Delinquency has heretofore gone on record, probably, that it did not recommend Initiative 175, which is the Youth Protection Act. The two primary reasons are: (1) the Committee members felt that at least a portion of it was unconstitutional; and (2) the proposed program—or rather set-up—did not lay down a constructive program of any kind.

By way of constructive suggestion, your Committee has the following recommendations to make: