Washington Law Review

Volume 28
Issue 4 *Annual Meeting of the Washington State Bar Association*

11-1-1953

Report of the Committee on Administration of Justice

John P. Garvin

pean countries, the legal fraternity has relative freedom, although we would find it irksome to practice under the restrictions existing in many of those countries today Elsewhere, courts and lawyers alike are under the supervision and control of a Minister of Justice which, of course, is an executive arm of the government, regardless of its form.

Rights and customs that we take for granted, such as the right to engage in both office and court practice, the right to practice in partnership, which was the subject of one of the papers at the institute this morning, the right to have your own office, the right to come and go when you please—even to tell your client where to go when you please —and his corollary right to hire or fire whom he pleases; these things are privilages unknown or unobtainable in most of the world today All these we have, and the right of self government as an integrated bar, besides.

Only by meeting promptly and adequately the responsibilities that these rights place upon our profession and by steadily maintaining a high standard of performance, can we justify our position.

Report of the Committee on Administration of Justice

By John P Garvin

Three major matters were referred to this committee during the year.

First, the matter of an additional federal judge for the Western District of Washington.

Second, the creation of an Eleventh Circuit Court of Appeals consisting of Washington, Oregon, Idaho and Montana and the Territory of Alaska.

Third, the method of selecting of judges, with particular consideration of the Missouri type plan.

In addition to these three matters, the committee considered many matters on its own motion, and matters which were informally suggested to members of the committee.

With reference to an additional federal judge for the Western District of Washington, this committee at its April meeting adopted the following resolution.

"RESOLVED that, on the basis of information before the committee, the committee favors Senate Bill 15 providing for an additional judgeship for the Western District of Washington."

With reference to the Eleventh Circuit Court of Appeals, the committee feels that the proposal for an Eleventh Circuit Court of Appeals has merit. This matter was considered and approved by the Washington State Bar Association, in 1940. However, it was resisted by Circuit Judge Denman and the proposal was dropped. This summer Judge Denman proposed the creation of an Eleventh Circuit. In the time elapsing since this proposal the committee has not had time to sufficiently study the matter and to procure the opinion of individual members of the bar. Furthermore, Congress is now ready to adjourn and the matter cannot be acted upon until next year. In fact, at the present time it has adjourned. It is the feeling of the present committee that this matter should be referred to the new committee on administration of justice.

During the year there was referred to this committee by the president of the association, numerous pamphlets, reports and periodicals with reference to methods of selecting judges. Most of the pamphlets dealt with proposals for changes in the methods of selecting judges in large urban communities where judges are still elected on partisan ballots. In the state of Washington, judges are elected on nonpartisan ballots and we have been enjoying many of the benefits which the bar associations in large eastern cities now are trying to procure. One of the plans being advocated is the Missouri method of selecting judges, by which a judge is originally appointed from an approved list and, after a period of time, the judge runs for election without an opponent, but the ballot provides for the voter to cast his ballot as to whether the judge shall be continued in office or not. This method may have merit and the present committee thinks the matter should also be referred to the new committee for further study.

The committee considered, during the year, many matters of court procedure, including the condition of the trial calendars. In small communities the trial calendar does not seem to be a problem. In large communities it does become a problem. It is the feeling of this committee at the present time, that trial calendars in the larger communities in this state, and particularly in King county, are in an up-to-date condition.

Many procedural matters have been considered and discussed with various judges. The committee feels that these are continuing matters and that improvement will result through the cooperation in the future

between this committee and the judges.

Another matter considered by this committee is the following· The practice of procuring affidavits from jurors reciting the arguments, votes, etc. which took place in the jury room while the jury was in process of considering its verdict. It is the belief of the committee that the usual juror enters upon the consideration of the verdict in an atmosphere of confidence and he does not expect that a fellow juror will be making an affidavit as to the arguments and votes in the jury room. This committee believes that this matter also, should have further study and may warrant legislation to the end that the deliberations of the jury in the jury room be confidential. It has been suggested to the committee that the subsequent disclosure of the deliberations of the jury tends to embarrass the jurors and to make prospective jurors reluctant to serve.

The present committee feels that there is benefit in continuity of membership in this kind of a committee. It is our recommendation that a committee of nine, with three appointed each year for three year terms, would be an improvement.

Report of the Advisory Committee on the Code

By Harry Ellsworth Foster

The Revised Code of Washington, contained in six loose-leaf volumes, is not the law but is only prima facie evidence of the law The law itself, is found only in the session laws. Since the adoption of the Revised Code of Washington as a prima facie code the supreme court has made it abundantly clear by repeated decisions that the session laws control RCW

On the eve of the convening of the 32nd session of the legislature the Washington State Bar News carried this note of caution.

"Members of the Bar who may be interested in the drawing of amendatory legislation to be presented to the current session of the Legislature should be careful to see that the former law references in the same comply with the Constitution, Article II, Sec. 37 There is reason to believe that amendatory legislation which refers to the·Revised Code of Washington, enacted by reference as Chapter 16, Laws of 1950, Extraordinary Session, would not comply with the above referred to constitution provision for Revision or Amendment of existing law"