

A HISTORY OF THE ORGANIZED BAR IN WISCONSIN

"one reason why the bar is comparatively less effective now than it formerly was is that it has not as a whole sensed the value and necessity of organization. This is a natural consequence when we take into consideration the lawyer's training and experience. To its great credit the bar has remained more individualistic in thought and action than any other group of citizens not excepting farmers. However, lawyers must realize that, while individualism is a priceless thing, if they are to be heard in this world of organized and coordinated interests they must speak through an organization as well as individually."

—Justice M.B. Rosenberry, President,
Wisconsin State Bar Association, June 22, 1927

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Preface

The mightiest oak tree begins as a tiny sprout, then spends years as a sapling before broadening out into a tall, mature giant. So it was with the state bar association in Wisconsin. For thirty-four years, the seedling organization showed little growth; it grew for another thirty-five, but slowly. Then occurred two years of hectic reorganization, and, eight years later, integration and dynamic expansion. Thus seventy of the first 108 years of the Wisconsin Bar's existence were notable mainly for their inertia--until it flourished in thirty-eight years of dramatic growth and became what is generally conceded to be one of the most effective state bar associations in the country.

To be sure, almost nothing affecting the organized bar happened all at once or in isolation. Seemingly sudden changes frequently were preceded by years of discussion or controversy. Likewise programs and services might span decades, often intertwining or overlapping amid the variety and complexity of bar, bench, and organizational politics. Many important principles, such as an integrated bar, were discussed more than a generation ago and continue to this day. Others once equally important--such as fee schedules--have long since been laid to rest. By viewing the century-old history of the Wisconsin Bar Association we gain no certain knowledge of its future; but we are assured of seeing where it came from, by what broad paths, and in what direction it has tended.

Our purpose, then, is to provide a backward look to a time when lawyers and jurists traveled by horseback and canoe across a wild and verdant quarter of the Old Northwest, pleading cases and dispensing justice in rude, makeshift courtrooms. This narrative extends from pre-territorial days, through the founding of the bar association in 1878, up to about 1912 when the association finally began to thrive. The history of the succeeding seventy-five years is treated more topically, and individual chapters are devoted to such subjects as integration, continuing legal education, fees, legislative involvement, and relations with the press and public. Because a viable bar association must be dedicated to serving the professional needs of lawyers, of the courts and public agencies, and of the public at large, the sub-histories of individual topics occasionally repeat or overlap one another. Just as the roots and branches of that metaphorical oak tree are in places close-knit and entangled, so it is with the wide-ranging and multi-faceted history of a thriving organization such as ours.

Indeed, it was not possible to treat all the worthy issues and episodes of a century's evolution. Separate histories should be written covering the story of Wisconsin's court system, of the Board of Pleading, Practice and Procedure, of our system of statutory rule-making by the

state Supreme Court, and of the relationship of our two state law schools to the bench and bar. It might also be added that the present history should be revised and updated periodically. The author is conscious of how fragile and ephemeral is the record of people and events, and of how important it is to assemble and preserve the materials that document their story. (In order to make the narrative more readable, the decision was made to omit footnotes; but from the research notes filed on a time-and-source basis, the original sources can be located if the reader so desires. In a few instances, this history is based upon the author's recollections as participant or observer. These recollections therefore reflect his personal opinion and are subject to possible lapse of memory.)

Everything considered, this effort to compile a record of the growth of the organized bar of Wisconsin has been both instructive and worthwhile. Associations come and go; few survive more than a decade or two. Yet here we bear witness to an association that has endured for 108 years, and its magazine for almost sixty. Both are strong and expansive; both seem likely to continue indefinitely. In this we can all take heart. Not all of the men and women who played a role in the rise of the Wisconsin Bar are named in this brief history; and probably there were some few among them who were neither wise nor good. Yet, overall, the hands of man and fate seem to have steered us well and true. May the future of the State Bar of Wisconsin unfold in similar fashion!

Chapter One

Background to Statehood The Early Years

The history of the Bar in Wisconsin might logically commence with the arrival in Green Bay of Henry S. Baird, Wisconsin's first resident lawyer, in 1823. It is deemed useful, however, to have an understanding of the earlier history of the area now comprising Wisconsin so as to comprehend the evolution of law, justice and the practicing bar prior to statehood on May 29, 1848. This early judicial history and that of the administration of the law from the first explorer in 1660 to mid-1800 is interesting and useful background to an understanding of the creation and development of the organized bar. Much of the following covering the period prior to statehood is abstracted from I Pinney.

Wisconsin was first visited by French missionaries in October 1660, when Mesnard reached Che-goi-me-gan, on Lake Superior. In 1672 Allouez and Dablon visited Green Bay and the country between the Fox river and the south end of Lake Michigan. In the year following, on the 13th of May, Marquette, a Jesuit missionary, and Joliet, an agent of the French government, with five other Frenchmen, embarked from the mission near Mackinac and arrived at Green Bay, where they found an Indian village, and procured guides to accompany them up the Fox river to the portage between that river and the Wisconsin, where the city of Portage is now situated. They descended the Wisconsin River to its mouth where they arrived on the 17th of June 1673, and made the first discovery of the upper Mississippi River. The territory remained under the government of the French, who claimed it, until 1763, when at the treaty of Paris it was ceded to Great Britain. The British government retained it until the independence of the United States was acknowledged in 1783, when it was claimed by Virginia as part of the Illinois country, conquered by Col. George Rogers Clark. On the 1st of March, 1784 it was ceded to the United States by the state of Virginia, by the cession of the North Western territory, and a government was provided for the territory north west of the Ohio River by the celebrated ordinance passed July 13, 1787. We commonly refer to this as the Northwest Ordinance.

Wisconsin, however, remained in the possession of Great Britain until 1796, when it was formally surrendered in accordance with Jay's treaty, which had been ratified the previous year.

An act of congress was passed on the 7th of August 1789 to give full effect to the ordinance of 1787 and to adapt it to the constitution of the United States. The ordinance provided for the organization of a government consisting of executive, legislative and judicial departments. The governor and judges were empowered to select and adopt such

statute laws of the original states as were, in their judgment, adapted to the condition and circumstances of the territory, as its laws, until its population numbered five thousand, when it was required that a legislature should be elected and organized.

By act of congress, approved May 7, 1800, it was provided that all that part of the territory of the United States north west of the Ohio river, lying to the westward of a line beginning at the Ohio River opposite to the mouth of the Kentucky River, and running to Fort Recovery, and then north until it intersected the territorial line between the United States and Canada, for the purposes of a temporary government should constitute a separate territory, called the Indiana territory, and to it were extended the general provisions of the ordinance of 1787. The judges were appointed, during good behavior, by the president of the United States. On April 30, 1802, the state of Ohio was admitted into the Union.

By an act of congress of January 11, 1805, the territory of Indiana was divided and the territory of Michigan was organized. The prescribed boundaries of Michigan territory were all that country north of a line drawn east from the southern bend or extremity of Lake Michigan until it intersected Lake Erie, and east of a line drawn from said southerly bend through the middle of Lake Michigan to its northern extremity, and thence due north to the northern boundary of the United States. Wisconsin still remained a part of Indiana territory.

By an act of congress, approved February 3, 1809, it was provided that all that part of the Indiana territory lying west of the Wabash River, and a direct line drawn from the Wabash River, and post Vincennes due north to the territorial line between the United States and Canada, should for the purposes of a temporary government constitute a separate territory called Illinois. By the provision of this act Wisconsin then became a part of the territory of Illinois.

Illinois was admitted as a state by act of congress on April 18, 1818, which established the north boundary line of that state at forty-two degrees and thirty minutes north latitude, and provided that all the remaining part of the North West Territory lying north of such northern boundary should be attached to, and made part of Michigan Territory including all of the present state of Wisconsin, part of Iowa, all of Minnesota and a part of what now constitutes the states of North Dakota and South.

The settlements which had been made up to this time within what now constitutes the state of Wisconsin consisted principally of French and English traders at and in the vicinity of forts and trading posts, those at Green Bay

and Prairie du Chien being the only ones of any particular importance. By the treaty of peace of 1783, and by Jay's treaty of 1795, it was stipulated by the English government that the North Western Territory with its forts, trading posts and dependencies, should be surrendered and transferred to the United States, and all the inhabitants, of whatever nation, then residents of the country, were to be protected in the possession of their property, with the right to remain or, at their option to withdraw with their effects from the country, and one year was allowed them to make their election. All who did not withdraw within that period were to be deemed American citizens, allowed to enjoy all the privileges of citizenship, and to be under the protection of our government. Few of the settlers left the country. But of those who remained nearly all who were French or English were subsequently found in the ranks of the enemies of the United States. Several bore commissions under the King of England, and with their Indian allies assisted in taking Mackinac, Prairie Du Chien and other places during the war of 1812 to 1815.

Notwithstanding these treaty stipulations the jurisdiction which the United States exercised in the territory previous to the war of 1812 was nominal rather than real and during the war nearly all of this part of the north west was in possession of the British. The few Americans who resided here were in fact subject to their authority. At the termination of the war actual possession was taken by the American troops of the North West.

The first American vessel laden with troops and supplies arrived at Green Bay opposite where Fort Howard was afterwards established in August or September 1816.

At the time Wisconsin became a part of Michigan territory in 1818, Gen. Cass was its governor, and continued to hold that office until 1832. Although a part of Michigan which had been fully organized as a territory, with its law and courts, and officers to administer and execute them, the rule that bore sway was substantially military until 1824, when civil authority became fairly established in this part of the north west. While this state of affairs continued, offenders against the laws were sent from these remote settlements in Wisconsin to Detroit for trial, or perhaps more usually escaped prosecution.

The military code, such as it was, more than supplied the deficiencies of the civil—and it occasionally happened that military commanders would so arbitrarily exercise the broad powers which they possessed as to produce great injustice and oppression and render the condition of the citizen extremely uncomfortable.

The proceedings of these military tribunals were speedy, short and decisive, and their decisions were rigorously executed. The delinquent debtor or unfortunate culprit had little to hope from "the law's delay." And while the proceedings of these tribunals were summary and exceedingly arbitrary in their character, it is probable that in most instances the ends of justice were substantially

attained.

Although the area was principally subject to military rule for eight years prior to 1824, it was not entirely so, as there was a species of civil authority occasionally exercised in a few places by justices of the peace and judges of the county courts of Brown and Crawford counties, which had been organized in 1821, but they seem to have enjoyed for the most part a divided authority with the military commanders.

This condition of affairs was the result not of an absence of legal enactments or of courts or officers to enforce them but grew out of the distant and isolated condition of the few sparse settlements then within the borders of what now constitutes the state of Wisconsin. It was the result of a practical necessity, and the difficulty, if not the impossibility, of appealing to the regularly constituted authorities at Detroit.

Until 1823, all that part of the territory of Michigan now forming the state of Wisconsin had no separate courts, except county courts of very limited civil and criminal jurisdiction, and justice courts. All important civil cases and all criminal cases, except for petty offences, were tried by the Supreme Court at Detroit. Suitors and witnesses were consequently compelled to travel at great expense a distance of from 400 to 800 miles to attend court. The only mode of conveyance in those early days was by sail vessels, during about six or seven months in the year, as during the other months there were no means of travel either by land or by water. In truth, the great expense and loss of time consequent upon such journeys in prosecuting the right, in many instances amounted to a denial of justice. Criminals could seldom have a fair trial because of the difficulty in obtaining the testimony of witnesses.

The judicial power was vested in a Supreme Court, consisting of three judges appointed by congress, originally to hold the office during good behavior but subsequently limited to four years. The court thus established had general civil and military jurisdiction within the territory. It is not practicable to review or comment upon the character of the decisions of this sage and dignified tribunal but, judging from the times and the action of this and other branches of the government, and the laws upon which these decisions were based, it is very probable, that many of them could not stand the test of a review by the courts of the present day. It was a well known fact that the judges composing the court were not of congenial disposition, and their opinions were not always unanimous, whether from conviction or a spirit of opposition was best known to themselves.

The legislative power was originally vested in the "Governor and Judges." Thus it was that one branch, and that a majority of the legislative body, enacted the laws for the government of the people, which they afterwards expounded and enforced. This anomalous form of legislation could not be otherwise than crude and imperfect.

The want of harmony between the judges oftentimes was made manifest more clearly and decidedly in the legislative hall than on the bench.

It frequently happened in those early days that lawyers desired to have a law passed to meet some particular case or emergency. The first thing to be done was to examine the statutes of other states, and find a law containing a provision similar to the one sought to be passed by the territorial legislature. When found, a bill was drawn up to suit the emergency. The next step was to get it passed by the legislature. This was sometimes a difficult thing to accomplish, depending upon the mood of the different members, and requiring some ingenuity to carry it through. Sometimes the bill would be first presented to the members, individually, out of session, and the sanction of each or of a majority, obtained to its adoption, before being presented to the entire body when in session for fear that the sanction of one member might prevent others not on friendly terms from favoring its passage. Many of the acts adopted by this enlightened body were peculiar and characteristic of the period.

At the period alluded to, imprisonment for debt was the law; but the territorial legislature humanely enacted that no person should be imprisoned where the debt or damages in the execution did not exceed the sum of five dollars. The marshal was empowered to summon a sufficient number of persons to serve as petty jurors, from which number a jury was empaneled to try the issue. Jurors knowing anything relative to the matter in dispute were required to disclose the same in open court. The fees of counsel and attorneys in the Supreme Court in civil suits was \$5—and if settled out of court, one third of that sum.

In January 1823, an act of congress provided for the appointment of an additional judge for the counties of Brown,* Crawford and Michilimackinac. That court had concurrent civil and criminal jurisdiction with the Supreme Court of the territory, subject, however, to have its decisions taken to the Supreme Court by writ of error, but no jurisdiction in admiralty and maritime cases, nor in certain cases in which the United States should be plaintiff.

The territorial government was very much restricted in its powers, and was treated by the federal government as a colony rather than as a separate political organization.

* Henry S. Baird opened Wisconsin's first law office in Green Bay that year. The law provided for holding one term of court, in each year, in each of the counties named in the act. James D. Doty was appointed judge of this court, at its organization, and held the office until May 1832, when he was succeeded by the Hon. David Irvin. This court continued as organized until 1836, when it was abrogated by the organization of the territory of Wisconsin.

On the 16th of October 1818, all that area now included in and constituting the state of Wisconsin, being then a part of Michigan territory, was divided into two counties, Brown and Crawford, by an act of the legislative council of that territory. Brown County included all of the territory of the present state of Wisconsin, east of a line drawn due north from the northern boundary of Illinois, through the middle of the portage between the Fox and Wisconsin Rivers. Crawford County embraced the territory between the Mississippi River and the western boundary of Brown County. On the 9th of October 1829, an act of the legislative assembly of Michigan, Iowa County was formed from that portion of Crawford county lying south of the Wisconsin River, and on the 6th of Sept. 1834 the western boundary of Iowa County was changed to the line between the Green Bay and Wisconsin land districts, which was a north and south line from the northern boundary of Illinois on the range line between ranges eight and nine. On the 6th of September 1834, Milwaukee County was established and set off from Brown County and fully organized, including within its limits all the territory bounded by the south and east lines of the present state, north to the north line of townships numbered twelve, and west to the range line between ranges eight and nine.

The terms of the district court for the counties of Michilimackinac, Brown and Crawford which was established by the act of 1823, were held once in each year in each of those counties; at Mackinac in July, at Green Bay in June, and at Prairie du Chien in May. Although Judge Doty had received his appointment in 1823, yet he did not arrive in the district until midsummer, and no regular term of the court was held that year. In October 1824 he appointed and held a special term for the trial of criminal cases at Green Bay. At this term the first grand jury was empaneled in Brown County, and the Hon. Henry S. Baird, who was the pioneer lawyer of Wisconsin, was appointed district attorney. A large amount of criminal business was brought before the grand jury. Forty-five indictments were found and presented to the court—one for murder, on which there was a conviction, some for assault and battery, larceny, selling spirituous liquor to the Indians, and last, but not least, 28 cases for illicit cohabitation. The large number of the latter class arose from the practice adopted by the traders and French inhabitants of taking Indian women as wives, according to the custom of the natives.

In the years 1825, '26, '27, and '28, Judge Doty and H.S. Baird, Esq. travelled from Green Bay to Prairie du Chien in a bark canoe, by way of the Fox and Wisconsin Rivers. Their crew was composed of six or seven Canadians and Indians. The time occupied in making the trip seven to eight days going, and the same in returning. The country was then an entire wilderness, there being no white settlements or inhabitants, except at Green Bay and Prairie du Chien. In May 1829, Judge Doty, M.L. Martin, Esq., and H.S. Baird, Esq., left Green Bay on horseback, and went

through the country to Prairie du Chien. They were accompanied by a Menomonic Indian as guide, who led or rode a pack horse. Their route was not a direct one, as the Indian was not well acquainted with the country west of Lake Winnebago; they travelled on the east side of that lake to Fond du Lac, thence by way of Green Lake to the Four Lakes, (crossing the outlet between 2nd and 3rd lakes in what is now Madison) the Blue Mounds, Dodgeville, and crossed the Wisconsin about six miles above its confluence with the Mississippi River. They were about seven days in making the journey, and saw no white people until they reached the Blue Mounds. They were the first party of white men that had attempted and accomplished the land journey from Green Bay to the Mississippi. Their route later became substantially the Military Road.

In those early days the accommodations for holding the court were neither extensive nor elegant. There were no regular court houses or public buildings, and the courts were held in log school houses, where there were such, or in rooms provided for the special occasion, destitute of comfortable seats and other fixtures for the convenience of the court, bar and jurors. In May, 1826, when the term of the court was to be held at Prairie du Chien, on their arrival they found the old town entirely under water, the inundation being caused by the overflowing of both the Mississippi and Wisconsin Rivers. The troops had abandoned the old Fort, and the inhabitants had fled to the high grounds near the bluffs—but two or three houses were occupied, and only the upper stories in those. It will naturally be imagined that under such circumstances the court could not be held. But not so—a large barn, situated on dry ground, was selected and fitted up for the accommodation of the court, bar and suitors! The court occupied the extensive threshing-floor about 14 by 35 feet. The jurors occupied the hay and grain mows on either side of the court. When the jury retired to agree upon their verdict, they were conducted by an officer to another barn or stable.

The settlement and improvement of the country was slow but sure, and its history exhibited but little beyond the ordinary scenes and occurrences in frontier life. Thus it continued until about 1827, when the south western portion of Wisconsin bordering on the Mississippi and Wisconsin Rivers, known as the lead region, began to attract attention. In a short time this district was overrun and filled with western explorers intent upon the acquisition of wealth and fortune in the business of mining and smelting and speculating in mining claims, so that the lead region soon became the most populous and prosperous portion of Wisconsin. After the organization of Iowa county, in 1829, the county of Crawford was attached to Iowa County for judicial purposes, and remained so until Wisconsin territory was organized in 1836, the term of court that had theretofore been held at Prairie du Chien being thereafter held at Mineral Point.

The records of the proceedings of this court during the period of its existence, from 1824 to 1836, are to be found in the office of the clerk of the circuit court for Brown County at Green Bay and in the office of the clerk of the circuit court for Iowa County at Dodgeville, and furnish valuable information in relation to the early settlement of Wisconsin to those who delight in historical and antiquarian researches. That some of its proceedings would be found of a novel and interesting character and open to serious questions as to their regularity is most probable; but with the limited means at hand to guide and regulate its proceedings, with but few books which its officers could consult, still it fully met and answered the practical necessities of the time in which it existed.

By an act of congress of June 15, 1836, Michigan was admitted as a state, and the western boundary of the state was established "from the Montcalm River to the middle of the Lake of the Desert, thence in a direct line to the nearest head water of the Menomonic River, thence through the middle of the fork of the said river first touched by the said line to the main channel of the said Menomonic River, thence down the centre of the main channel of the same to the centre of the most usual ship channel of the Green Bay of Lake Michigan; thence through the centre of the most usual channel of said bay to the middle of Lake Michigan, thence through Lake Michigan to the northern boundary of the state of Indiana."

The Territorial Government

The territorial government of Wisconsin was established by an act of congress approved April 20th 1836. The territory of Wisconsin embraced within the boundaries prescribed in the organic act, all the territory now embraced in the states of Wisconsin, Iowa and Minnesota, and a part of the territory of Dakota, and it was provided that after the 3rd day of July 1836, it should constitute a separate territory for the purposes of a temporary government.

The executive power over the territory was vested in a governor, who was also superintendent of Indian affairs, and whose approval of all laws was necessary before they should take effect.

The act provided for a secretary, whose duty it was to record and preserve the laws and proceedings of the legislative assembly, and the acts and proceedings of the governor, and who was to execute and perform the powers and duties of governor in certain contingencies mentioned in the act.

The judicial power of the territory was vested in a Supreme Court, district courts, probate courts, and justices of the peace. The Supreme Court consisted of a chief justice and two associate justices, any two of whom constituted a quorum, and to hold a term at the seat of government of the territory annually.

The territory was to be divided by the legislative assembly into three judicial districts, in each one of which

district court was to be held by one of the judges of the Supreme Court at such times and places as should be prescribed by law. The jurisdiction of the several courts, both appellate and original, and that of the Probate courts and justices of the peace, to be as limited by law, but the Supreme and district courts respectively to possess chancery as well as common law jurisdiction, and each of the district courts to have and exercise the same jurisdiction as was vested in the circuit and district courts of the United States. Writs of error and appeals from the final decision of the Supreme Court were to be allowed and taken to the Supreme Court of the United States in the same manner and under the same regulations as from the circuit courts of the United States when the amount in controversy exceeded \$2,000. The jurisdiction of justices courts was limited to cases in which the debt or sum claimed did not exceed \$50, and excluded cases in which the title to land was in dispute. The act provided that the governor, secretary, three justices of the territorial Supreme Court, attorney and marshal should be appointed by the president, by and with the advice and consent of the senate, the governor to hold his office for three years, unless sooner removed, and the judges to hold during good behavior. The clerks of all the courts were appointed by the judges thereof.

Judges of probate, justice of the peace, sheriffs and militia officers were to be appointed by the governor, by and with the consent of the council. All other township and county officers to be elected by the qualified electors.

It was provided in the organic act, "that the inhabitants of the territory shall be entitled to, and enjoy all and singular, the rights, privileges, and advantages as secured to the people of the territory of the United States, north-west of the river Ohio, by the articles of the compact contained in the ordinance for the government of the said territory, passed on the 13th day of July, 1787; and shall be subject to all the conditions, restrictions and prohibitions in said articles of compact imposed upon the people of the said territory. The said inhabitants shall also be entitled to all the rights, privileges, and immunities heretofore granted and secured to the territory of Michigan, and to its inhabitants; and the existing laws of the territory of Michigan shall be extended over said territory, so far as the same shall not be incompatible with the provisions of this act, subject, nevertheless, to be altered, modified or repealed by the governor and legislative assembly of the said territory of Wisconsin; and further, the laws of the United States are extended over, and shall be in force in said territory, so far as the same or any provisions thereof may be applicable."

Under this section of the act, the courts of the territory administered the laws of Michigan until those laws were superseded by the territorial legislature; and sitting as circuit and district courts of the United States, they administered the statute laws of congress, civil and criminal.

The general principles of the ordinance of 1787

were embraced in the organic act and were continued in the constitutions and laws of the states embracing the north-west territory.

On the fourth day of July, 1836, the governor, secretary and judges took the prescribed oath of office at Mineral Point, which event constituted a novel and interesting element in a grand celebration of the national anniversary which was generally participated in by the inhabitants of the lead mine region of which Mineral Point was then the recognized metropolis. A census of the territory was shortly taken by the sheriffs, and an apportionment of members of the two branches of the legislative assembly made by the governor, among the several counties.

That portion of the territory comprised in the present state of Wisconsin consisted of four counties, Brown, Crawford, Iowa and Milwaukee, the boundaries of which had been fixed by the laws of Michigan as before stated. The census exhibited the following figures:

<u>County</u>	
Brown	2,706
Crawford	850
Iowa	5,234
Milwaukee	2,893
Total	11,683

The time fixed by the governor for the election was the 10th of October. The election excited a very considerable interest, growing chiefly out of local considerations. The permanent location of the seat of government, the division of counties and the location of county seats were the questions that chiefly influenced the elections, while the views of candidates, in relation to national politics, had little or no influence upon the results.

Mr. John Atchison, and enterprising citizen of Galena, during the summer and autumn of 1836, having laid out a town plat between the two Platte Mounds, to which he gave the name of Belmont, erected several buildings, designed for the accommodation of the legislative assembly. The governor, by his proclamation, appointed that place, and the 25th of October as the time, for the meeting of the first session of the legislative assembly.

A quorum of each house was in attendance at the time fixed for the meeting, and the two houses were speedily organized by the election of Henry S. Baird, Esq. of Green Bay, president of the council, and Peter Hill Engle, of Dubuque, speaker of the house or representative. Each of the three branches of the infant government was now in working order, except that it remained for the legislative assembly to divide the territory into judicial district, and make an assignment of the judges. This was speedily done. Crawford and Iowa constituted the first district, to which the Chief Justice was assigned; Dubuque and Des Moines the second, to which Judge Irvin was assigned, and

Judge Frazer was assigned to the third, consisting of Milwaukee and Brown counties.

The first act passed by this first legislative assembly was one which privileged the members from arrest, and conferred upon themselves authority to punish for contempt. The next one, with the exception of that already referred to, establishing judicial districts, was "to borrow money to defray the expenses of the first session of the legislative assembly." All of the territory south and east of the Wisconsin and Fox Rivers was subdivided into counties, as they now exist, except that Ozaukee, Waukesha, Kenosha and LaFayette have been formed out of Washington, Milwaukee, Racine and Iowa. In most of the counties the county seats were located at the same session.

The great and paramount questions of the session was the location of the seat of government. To this all others were subordinate and made subservient. The wild spirit of speculation which, in the earlier part of the year 1836, had, like a tornado, swept over the whole country seized upon the unsold public domain, which was transferred by millions of acres from the control of the government and the occupation of the settler, to the dominion of the speculator. Speculation, although on the wane in the last months of that year, was still omnipotent, and exerted a marked influence upon many of the members of the Belmont legislature.

Numerous speculators were in attendance with beautiful maps of prospective cities, whose future greatness was portrayed with all the fervor and eloquence which the excited imagination of their proprietors could display. Madison, Belmont, Fond du Lac and Cassville, were the points which were most prominently urged upon the consideration of the members. Hon. James Duane Doty, afterwards a delegate in congress, and governor of the territory and later governor of Utah, where he died, had resided for many years at Green Bay as additional Judge of Michigan territory. His frequent journeys in discharge of his judicial duties in the different parts of the territory had rendered him familiar with its geography and topography, and had given him superior advantages for judging of the eligibility of different points as sites for the capital of the territory and future state. Judge Doty fixed upon the isthmus (in Madison) between the third and fourth of the Four Lakes, and in connection with Stevens T. Madson, the governor of Michigan territory, purchased from the government about 1,000 acres in sections 13, 14, 23 and 24, upon the common corner of which the capital now stands. Upon this tract of land a town plat was laid out, called Madison, and under the auspices of its founder became a formidable competitor for the honors and advantages of being selected as the seat of government. Madison town lots in large numbers were freely distributed among members, their friends, and others who were supposed to possess influence with them.

Nearly four weeks were spend in skirmishing

outside the legislative halls when on the 21st of November the battle was formally opened in the council, and the bill considered in committee of the whole, until the 23rd, when it was reported back in the form in which it became a law, fixing upon Madison as the seat of government, and providing that the sessions of the legislative assembly should be held at Burlington, in Des Moines County, until March 4, 1839, unless the public buildings at Madison should be sooner completed.

When the bill was reported back by the committee of the whole, and when under consideration in the council, where the ayes and noes could be called, a spirited attack was made upon it, and motions to strike out Madison and insert some other place were successively made in favor of Fond du Lac, Dubuque, Portage, Helena, Milwaukee, Racine, Belmont, Mineral Point, Platteville, Green Bay, Cassville, Bellevue, Koshkonong, Wisconsinapolis, Peru and Wisconsin city; but all with one uniform result—ayes 6, noes 7. The bill was by a vote of 7 to 6 ordered engrossed, and the next day passed the council. In the house of representatives the opposition was not so formidable, and on the 28th, the bill was ordered to a third reading by a vote of 16 to 10 and passed the same day, 15 to 11—thus ending one of the most exciting struggles ever witnessed in the territory of Wisconsin. This question disposed of, little remained which was thought expedient to act upon at that session.

A proposition was made for a commission to codify the laws, but the opinion was prevalent that the territory would soon be divided, so that this and other propositions of a kindred character met with but little favor.

The population of the territory in May 1838, as shown by the census, was as follows:

<u>County</u>	
Brown	3,048
Crawford	1,220
Dane	172
Dodge	18
Green	494
Grant	2,763
Iowa	3,218
Jefferson	468
Milwaukee	3,131
Racine	2,054
Rock	480
Walworth	1,019
Washington	64
Total	18,149

The first term of the Supreme Court of the territory was held at Belmont in Iowa County on the 8th day of December 1836. Present were Hon. Charles Dunn, Chief

Justice, and Hon. David Irvin, Associate Justice. John Catlin, Esq. was appointed clerk, and Justice Deseehorst crier. Henry S. Baird, Esq. having been appointed attorney general for the territory, appeared and took the oath of office. Thos. P. Burnett, Esq., was appointed reporter.

Henry S. Baird, Peter Hill Engle, David G. Fenton, James Duane Doty, William W. Chapman, Lyman J. Daniels, James B. Dallam, Thomas P. Burnett, Barlow Shackelford, William N. Gardner, Hans Crocker, Joseph Teas, William R. Smith, James H. Lockwood, James Nagle, John S. Horner and Parley Eaton, Esqrs., were admitted and sworn as attorneys and counsellors of the Supreme Court, and there being no further business to be transacted, the court adjourned for the term.

On the third Monday of July 1838, the annual term of the court was held at Madison. Present were Chief Justice Dunn, and Associate Justice Frazer. At this term William H. Banks, F.S. Lovell, H.W. Wells, Jonathan E. Arnold, and Francis J. Dunn were admitted as attorneys and counsellors, and several motions were heard and rules granted. At this term rules one to four of the rules of practice of the court were adopted, and thereupon the court adjourned for the term. All of the terms thereafter were held at Madison.

On the 8th of November 1838, Hon. Andrew G. Miller of Pennsylvania was appointed Associate Justice of the court, to succeed Judge Frazer then recently deceased. On the 19th of December the official oath was administered to him in Milwaukee by John S. Rockwell, Esq., and Chief Justice Dunn and Associate Justices Irvin and Miller composed the Supreme Court until the organization of the state in 1848.

At the term in 1840 rules of practice for the district courts were adopted. These rules were uniform throughout the territory, and were acceptable to the profession.

They simplified pleadings, and relieved the practicing attorney of the preparation of voluminous papers in the ordinary routine of business in the courts. Afterwards the same rules, but more in detail, were adopted as the rules of the Federal court in the district of Wisconsin.

The territory of Iowa having been organized on the 4th of July 1838, embracing that portion of Wisconsin west of the Mississippi River, the legislative assembly of Wisconsin at its session in 1839 made a new division of Wisconsin territory into judicial districts. The counties of Iowa, Grant and Crawford constituted the first district, to which Chief Justice Dunn was assigned, the counties of Dane, Jefferson, Rock, Walworth and Green the second district, to which Judge Irvin was assigned, and the counties of Brown, Milwaukee and Racine constituting the third district, to which Judge Miller was assigned. Unorganized counties were attached to different counties in the several districts for judicial purposes.

At the session of the legislative assembly held at Madison, Nov. 26th, 1838, a committee of three members

from each of the two branches was appointed to make a revision of the laws. The committee, during the recess of the legislative assembly, prepared and at the succeeding session reported numerous bills, which were passed by that body, and compose the principal part of the laws contained in the volume of the Revised Statutes published in 1839, which took effect on the 4th of July of that year.

The laws having been in a great measure copied from the statute laws of the state of New York, the decisions of the courts of that state construing them materially aided the courts of the territory in the discharge of their judicial duties. A small portion of the volume was taken from the statutes of Massachusetts and Ohio. This volume, with amendments made from time to time, comprised the statute law of Wisconsin until the revised statutes of 1849 went into effect.

The territorial statutes superseded in a great measure the claim laws and regulations made by early settlers and squatters, and the miners' rules in the mineral region, forming a code of laws adequate to the protection of the rights and interests of an enterprising and rapidly increasing population.

The courts adopted and followed equity and common law practice with technicality, but with liberality as to amendments. Criminal prosecutions were not numerous, though there were several trials for crimes punishable by death, and, in some instances, convictions which were followed by execution by hanging.

The last term of the Supreme Court adjourned on the second day of August 1847, but the several district courts continued in operation until the admission of Wisconsin as a state, which occurred May 29, 1848, by which the territorial government was merged into that of the state. The admission of Wisconsin as a state, which occurred May 29, 1848, by which the territorial government was merged into that of the state. time to time, comprised the statute law of Wisconsin until the revised statutes of 1849 went into effect.

Chapter Two

From Statehood to Organization of the Bar

The three decades following statehood saw a burgeoning explosion of population, settlement, farming and industry reaching to all corners of the state. The 1850 population of 305,000 (105,000 were native Yankees) grew to 776,000 in 1860 and to 1,215,497 in 1880.

The first settlers of the territory were men trained to industry and economy. They were honest and enterprising. The settlements commenced on the shores of lake Michigan and the Mississippi river, and extended with unprecedented rapidity towards the interior. Contracts necessarily made in opening up and improving the country gave rise to a great amount of litigation.

Until the mid-1840's most of the settlers came from the eastern states, especially New York, Pennsylvania and Ohio. Beginning in the mid-1840's the tide of immigrants began, in the early years heavily Norwegian, Scotch, England and Swiss. The great attraction to the immigrants was the vast area of public land offered for sale. While Wisconsin never had free homestead land, the availability of land from the federal land offices at \$1.25 an acre was most attractive.

The sale of public lands began soon after the official surveys were completed. All of the land south and east of the Wisconsin—Fox River boundary was surveyed in 1832-33 and placed on sale at an auction (largely to speculators) in 1834 and to private buyers in 1835. The land offices were in Mineral Point, Green Bay and Milwaukee. Surveys and sales in the rest of the state soon followed.

At the time of statehood, the northern two-thirds of the state was largely forest area. From the late 1830's lumbering zoomed. By the 1870's most of the prime timber close to a stream had been cut. By 1880, the railroad replaced the river in moving timber and sawed lumber, opening remote areas.

With a surge of population in the 1850's and 1860's, agriculture prospered largely in raising wheat, which was a cash crop. In the 1860's Wisconsin was the second among wheat producing states. This heyday went into a quick decline thereafter, as rust, smut and depleted soil drastically reduced yields. This forced the farmers to turn to dairying and corn, and by 1880 our great dairy industry was solidly established.

Key to opening the state to industry and commerce was the development of railroads in this era. A rail connection to Milwaukee from Chicago came in 1855. By 1857 the line from Milwaukee to Madison and Prairie du Chien was completed, followed by Milwaukee to La Crosse and Minneapolis, from Chicago to Madison to Minneapolis, and to Green Bay, Fond du Lac and Ashland from Milwaukee.

No figures could be found as to the numbers of lawyers in Wisconsin at the time of statehood or at the time the Bar was organized in 1878. It is estimated that there were fewer than 300 lawyers in 1850 and 1200 in 1880. That there were many active lawyers in territorial days is indisputable, including such as Doty, Baird, Martin, Lockwood and Burnette. All of the early lawyers appear to have been trained in the east, especially in New England and New York state.

The requirements for admission to the bar were very meager from Wisconsin's admission as a territory in 1836 until 1885. (See chapter 13 on Admission to the Bar, for details.) The first territorial legislature required only a 3-month's residence and that the applicant had studied law for two years in a practitioner's office or partly at a law school. In 1839 the requirement of citizenship or any kind of preparation was dropped and the courts given discretion to admit anyone who could show that he was of good moral character. In 1849, the legislature further opened the door and required the courts to admit any applicant who was a resident and of good character. This wide-open admission policy was continued until the 1861 legislature added a requirement that applicants satisfy the judge by examination in open court that they possessed sufficient knowledge to entitle them to practice law. In practice, this had little effect, and each circuit judge administered the law as he saw fit. The 1861 law was reenacted in 1878, and remained in effect until the Board of Bar Examiners was created in 1885. During those 50 years, the admission of so many unqualified lawyers created untold problems and law business for the qualified practitioners.

This unhappy situation of easy bar admission, except as to the university, was one of the first challenges faced by the bar when it organized in 1878. See later pages for the outcome.

Chapter Three

A State Bar is Born

From the earliest days following the Revolutionary War until the 1870's, no effective state or national bar associations were formed. Some associations were organized on a temporary basis, such as in Mississippi in 1825, in Arkansas in 1837, in Kentucky in 1846 and in New Orleans in 1847, quite surprisingly all in the south. Times were not ripe for such associations until after the Civil War, and no permanent records exist for these early groups.

The era of modern bar associations began in 1870 with the Association of the Bar of the city of New York, primarily to fight the corrupt Tweed organization. In 1874, the Chicago Bar Association was formed, spurred on by the activities of a notorious fringe of unlicensed practitioners. Between 1870 and 1878, eight city and eight state bar associations in twelve states were organized, mainly to assist in the reform of municipal government as well as to improve conditions within the bar.

In Wisconsin, the local associations in Milwaukee and Dane counties, and perhaps in one or two others, became active, evidenced by the adoption of fee schedules following the Civil War. No mention or effort at state organization occurred.

The state of Wisconsin was peculiarly fortunate in the character of its early bar. There came to this state in territorial days and in the days of early statehood a small band of educated lawyers, most of them from the eastern states, especially from New York, Massachusetts and Vermont, men who were strong mentally and physically, and who combined in their characters the refinement of the student and scholar with the vigor and ambition of the sturdy pioneer. They came at the formative period of the state, when manners and customs were yet plastic and pliable, and when strong characters were certain to leave their impress not only on their own generation but upon those yet to come. This early Bar, as the history of the state amply records, strong, able and vigorous as it was, took a most active part in determining the policy and ideas of the infant state. It unquestionably had a controlling influence in molding our organic law and institutions and in determining the future policy of the state. The character, ability and professional standing of counsel taking part in the determination of important cases have always been elements which require consideration, since the argument of great advocates command an attention and afford an assistance to the court which powerfully affect the trend of the law.

At the same time, because of the liberal, wide-open ease of admission to the bar following statehood, Wisconsin had a considerable number of ill-trained and often incompetent lawyers. This gave concern to the educated and more competent members of the bar, and undoubtedly led to a recognition of the need for an association to face the problem.

The First Step

The genesis of the organized bar in this state is precise and swift. The first step taken towards the organization of the State Bar Association of Wisconsin was on the 21st of September, 1877, when a meeting of the members of the Bar of the Western Judicial District of Wisconsin was held at the United States Court Room in Madison. The meeting was called for the purpose of expressing the sentiment of the Bar relative to the appointment of a judge to fill the vacancy caused by the death of Hon. J.C. Hopkins, Judge of the United States District Court for the Western District of Wisconsin, who died in Madison on September 3rd, 1877. At this meeting, A.A. Jackson of Janesville called the attention of the members of the Bar present to the importance of forming a State Bar Association, and he suggested that the meeting then held presented an opportunity to take some action for that purpose. I.C. Sloan, of Madison, moved the appointment of a committee to report at an adjourned meeting a plan for forming a permanent State Bar Association. The motion was adopted, the committee appointed, and with alacrity somewhat unusual with committees of Bar Associations, reported on the same day that in the opinion of the committee it was important and advisable that a Bar Association of the state be organized, and in view of the considerable representation of the Bar of the state then present, it was recommended that the meeting take preliminary steps towards such an organization. For that purpose a committee was appointed to consist of: Hon. E.G. Ryan, Chief Justice, Chairman; William F. Vilas, Secretary; A.C. Fish, Racine; L.S. Dixon, Milwaukee; H.B. Jackson, Oshkosh; David Taylor, Fond du Lac; O.B. Thomas, Prairie du Chien; Joseph Losey, La Crosse; C.M. Webb, Grand Rapids; J.C. Spooner, Hudson; T. R. Hudd, Green Bay; J.M. Bingham, Chippewa; John R. Bennett, Janesville; and H. H. Hayden, Eau Claire.

The report of the committee was unanimously adopted and thereupon the committee issued a call, directed to the members of the Bar of the state of Wisconsin, which call was signed by all of the members of the committee and which is as follows:

"To the Members of the Bar in the State of Wisconsin:

At a meeting of the members of the bar of the western district of Wisconsin held on the 26th day of September last, and attended by many lawyers from various parts of the district, it was resolved to initiate a movement for the formation of a state bar association. In pursuance of such resolution we, the undersigned, were appointed a committee and requested to call a meeting for the purpose

of effecting such organization.

We fully concur with our professional brethren, who have made this request, in the belief that much advantage to the profession and to the state will result from such an association properly formed and maintained, and we take pleasure in assisting to form it.

We therefore appoint the 9th day of January next (1878) at 12 o'clock M., as the time, and the city of Madison as the place of such meeting, and cordially invite the lawyers of the state to attend and take part in the deliberations of the meeting, and to cooperate in founding and upholding the proposed association."

On the day stated, January 9th, 1878, at 12 o'clock noon, several hundred lawyers from all parts of the state assembled in the Supreme Court in the old State Capitol in Madison for the purpose of perfecting the organization of the association.

The meeting was called to order by Chief Justice Ryan, Chairman of the committee. His admirable address, in which he so tersely and vigorously dealt with the law and the profession of the law is well worth reading, for its has lost none of its effectiveness and appropriateness, although uttered 118 years ago, and it is as applicable to the conditions of today as to the conditions of a century ago. A former president of the association, M.A. Hurley, who was present at the time, the words were uttered said in his annual message of 1911, "That beautiful address will never be forgotten by those who heard it or by those who have since read it."

"Brethren of the Bar:

As chairman of the committee which called this meeting, I have the pleasant duty of welcoming you here. I have long desired to see an efficient association of the state bar, and I am happy to think that the auspicious time has come at last when one may be formed.

The uses of such an association are obvious. Without it, the bar cannot properly assert itself, or exercise its due influence in matters of interest to it. Doubtless, in matters bearing on the interests of the profession, individual members of the bar exercise some influence, but such influence is necessarily fragmentary, and sometimes discordant. The bar, as a body, can only have the influence which properly belongs to it, on professional subjects, through an organization by which it can speak with one voice.

The vast body of our law, called the common law, is the work of our profession; the wise and just rules which have been the legacies of generations of lawyers, through the centuries, to all common law peoples. An these constitute today not only the great body of our municipal law, but the bulwarks of civil and religious liberty, of the rights of persons and of things, more extensive and secure than any written constitution. If it be true that the common law was somewhat due to the free spirit of the people

amongst whom it arose, it is none the less true that it has educated all the peoples with whom it has prevailed to higher, firmer and more independent manhood. It may be safe to say that no people thoroughly educated in the rights of the common law, could be brought to tolerate an oppressive political system. Civilization from time to time outgrows some of the fixed rules of the common law, and it is the business of legislation to relax them, and to adapt the common law to the existing condition of society. And the profession which is educated in the common law, and has mastered it as a service, ought to have an influential voice in all legislation which modifies or repeals its rules.

But it is not outside only, but inside of itself, that the judgment and common voice of the bar should be heard and felt. We are all proud of our profession; proud of the multitudinous worthies who have made it illustrious in the past, and who are showing forth its honor in the present. No profession or calling has given so many great names to American history as the bar. There is no state in the Union on which the names of its great lawyers have not shed lustre. An American law list from the beginning would embrace a large proportion of the names held in honorable memory by the American people. There is a passion for military glory amongst all nations, hero-worship. And the glory of the soldier may be more dazzling than the glory of the statesman-lawyer. But it is less solid. For the truest glory of the soldier, here at least, is to preserve the work of the statesman. The path of the soldier, however patriotic or worthy the war, is destruction. The path of the statesman-lawyer is organization; and the path of every lawyer, worthy the name, is preservation. And in a high sense, true heroism may be in a tribunal as well as on the battlefield. Duty, fearlessly and faithfully performed, against all influences and difficulties, is the only true glory. Moral courage is a higher quality than physical.

He reads American history superficially, who does not see the illustrious dead of our profession battling in the vanguard for all true political and social amelioration. And he who looks upon society, without seeing in the profession the sentinel of social order, sees through a glass darkly. In civilization, a community without a bar is worse off than an army encamped without sentinels. For the army many rally against surprise, but a community cannot peaceably defend its rights without the aid of the bar in the administration of justice. If the millennium be coming, it has not come. And the administration of justice is essential to the security of all rights, public and private; essential to all social order. There is the strength of the bar, powerful where an army would be powerless. The peaceful social order, the integrity of the state, and every sacred personal right, are in the keeping of our profession. The legislative power would pass laws and the executive draw and sword to enforce them in vain, if there were no courts to administer them. And a court without a bar would be little better than an untrustworthy illusion; a disturbing phantom of justice.

For not only must the bar educate competent judges, but it is the efficient and only fit censor of the judges promoted from it; a police power over the intelligence and justice of courts. In common law courts, the bar is as essential as the bench. A learned and independent bar is a condition of true civilization.

But the glory of the bar and the easy access which it gives to high place have drawn towards it men unfitted for it by nature or education. The bar has no exemption from fools or knaves. The foolish lawyer is perhaps the most dangerous of all fools—almost a knave, by assuming duties of such grave import to the well-being of society, without adequate ability or training. Horace says that poets are born, not made; and perhaps orators are born also, though Horace thinks they are made. But though there may be geniuses who think that they are born lawyers, we know that a lawyer is born only of year of patient, steadfast, laborious study. And even then the safest knowledge of the wisest lawyer is the comprehension of how limited and uncertain his knowledge is. A knavish lawyer is certainly the most dangerous of all knaves. For it is to the profession that, in time of peril, all rights of person and property are committed. The bar is the trustee of everything which man holds sacred. And the opportunity to betray is fearfully easy. Indeed, it may be truly said that integrity of character is as essential to a lawyer as professional learning. For without innate love of truth and justice, it is impossible truly to comprehend a profession essentially founded on truth and justice. And it is perhaps amongst the highest glories of the profession, that instances of betrayed trust are so rare in its ranks.

But it must be admitted that there are unworthy members of the bar. The rule of admission is unfortunately lax. The doors are not ajar, but wide open. And there are those who have come in at them who should surely pass out of them. Doubtless all or most of you have had the same experience as myself. At the bar and on the bench I have sometimes seen—not often, but sometimes—conduct even amongst able lawyers, calling loudly for scrutiny or censure; ignorance so great as to be almost guilty, and malpractice so audacious as to be almost folly. Such should not be permitted to abuse public confidence in our profession, or to cast a shadow upon its honor.

The power of courts to weed the profession of its unworthy members is limited and inadequate. Judges may be painfully obliged to surmise professional default without judicial knowledge. All efficient steps to purge the bar must come from the bar itself. And this could scarcely be done—is almost never done—by individual effort. The aggregate bar must speak and act. The great body of the profession should enforce its ethics; censure what is worthy of censure, and pose to disbar all who forfeit the honor to belong to it. This I take to be a main object of the association which you propose to form.

And it is not only by direct action that a bar

association, with these objects, would be felt for good. The existence of such a body, ready and potent to strike, would operate as a wholesome restraint; would strengthen weak conscience in others. We may at least hope that it will be so. We may at least hope that a few years of action and influence of such an association will go towards making universal, that a lawyer is the most trustworthy of men in peril; true to his client when all else desert him; that a good lawyer is essentially a good man; an enlightened, nighminded honorable gentleman.

For obvious reasons, gentlemen, I cannot share your deliberations or your work. If it should survive my term of office, I hope to find a place in your association. Until then my work for the honor of the profession must be essentially distinct from yours. And I beg you now to choose your presiding officer, that I may retire."

A resolution was adopted by the meeting providing that a copy of this address be sent by the Secretary every lawyer and the state, and that three copies be sent to each member of the new Association.

Chief Justice Ryan declined to take further part in the organization of the association, for the reason that the court over which he presided might be called upon to act judicially upon matters brought before it by the association. Moses M. Strong, of Mineral Point, a veteran of the Bar even at that early date, was elected as the first President of the meeting, and Edwin E. Bryant, of Madison, later to be known throughout the state as Dean Bryant, was elected secretary. A constitution was submitted, proposed by the original committee, of which Chief Justice Ryan was chairman and William F. Vilas, secretary. The constitution was presented by Mr. Vilas, and it was adopted with certain amendments, as were also the bylaws reported and submitted by the committee. The minutes state:

"On motion of Mr. Vilas, the Secretary was directed to procure a book for the enrollment of members and to receive from each the admission fee."

The amount of the fee is not stated.

"A recess was then taken during which the gentlemen whose names appear in the original roll of membership, as signing the name January 9th, 1878, came forward and signed the roll."

This original membership roll containing the names of 265 well known and distinguished lawyers of this state is preserved at State Bar Headquarters. There were at the time upwards of 1,349 lawyers in the state of Wisconsin, of whom about 1,200 were in the active practice of the law.

John W. Cary, of Milwaukee, then moved that a committee be appointed to make nominations for the

several offices provided by the constitution. The committee reported on the same day the following names for the several offices of the Association, as its first roll of officers: For president, Moses M. Strong, Mineral Point; for vice presidents (one from each judicial district), T. D. Weeks, Whitewater; A. R. R. Butler, Milwaukee; L. F. Frisby, West Bend; David Taylor, Fond du Lac; J. Allen Barber, Lancaster; J. M. Morrow, Sparta; M. A. Hurley, Wausau; S. H. Clough, Superior; A. G. Cooke, Columbus; W.H. Norris Jr., Green Bay; J. M. Bingham, Chippewa Falls; H.H. Hayden, Eau Claire; for secretary, Edwin E. Bryant, Madison; for treasurer, J. H. Carpenter, Madison; for Executive Committee for three years; John W. Cary, Milwaukee; W.F. Vilas, Madison; A. A. Jackson, Janesville; for Executive Committee for two years; Fred C. Winkler, Milwaukee; H.B. Jackson, Oshkosh, S. U. Pinney, Madison; for Executive Committee for one year J. W. Losey, La Crosse; J. V. Quarles, Kenosha; S. D. Hastings Jr., Green Bay.

The above officers were elected by the meeting, and Mr. Strong assumed the chair. Two matters were emphasized by Mr. Strong, the first relating to the admission of attorneys to practice, and the recommendation that such laws be passed "as will be calculated, by denying the high privilege of practicing our profession to persons unfit to enjoy it, either want of learning, general or professional, or want of moral character, to elevate the character of the profession to that high plane which has made its history at once the pride and boast of all who are worthy to share its honors." The second important suggestion was to the effect that "present active steps must be taken to reform the profession by depriving of its privileges shysters and unworthy members." His closing remarks stated:

"Another important characteristic of our association will be its social element. The fact alone that several hundred members of our common profession, in which we take so much interest and pride, meet together annually, and exchange greetings and indulge in common sources of joy and pleasure, and speak of our common or individual experiences, our successes or failures, or as may be—and too often will be—to mingle our griefs over the death of some of our brethren, cannot fail to create and annually cement a bond of sympathy and friendship which will be as lasting as time and as holy as love."

Among the first items of business transacted by the association was the adoption of a resolution providing for the appointment of a committee to cooperate with the proper committee of the Wisconsin legislature to secure a reduction in the price of the Wisconsin Reports.

At an adjourned meeting of the association held in Madison on Feb. 20, 1878, this committee reported at length its activities in the matter of securing a price for the Wisconsin Reports, befitting the practice of the law in those

days. The report takes up to almost four pages of the printed proceedings showing how adequately the committee functioned. But the final action of the meeting on the report was as follows: "Report laid upon the table by a vote of ayes 40, noes 29." At this same meeting it is interesting to note that the association adopted the following resolution,

"RESOLVED, that the association is in favor of the strict enforcement of the laws of this state regulating the admission of attorneys."

It is also interesting to note that at this meeting a resolution was presented that the association approve a certain member of the State Association for Associate Justice of the Supreme Court, there being at that time two new positions created on the Supreme Court. After considerable discussion, the resolution was withdrawn, but notwithstanding this, the member thus suggested, Mr. David Taylor, of Fond du Lac, a charter member of the association, was elected, and served thereafter for many years as a member of our Supreme Court.

Thus the Bar of Wisconsin was officially organized. Foremost in this endeavor were the early giants of the profession, Bryant, Ryan, Strong and Vilas.

Chapter Four

Prologue to Greatness

Even a mighty oak tree starts as a tiny sprout, then spends years as a sapling before broadening into a tall and mature giant. So it was with the growth of the bar association in Wisconsin. For the first 34 years virtually nothing happened. Then for 35 years only slow growth, followed by two years of hectic reorganization, and after eight years, integration and rapid expansion. Thus 70 of the first 108 years of the Wisconsin bar's existence were noted only for inertia, followed by 38 years of expansion into what is generally conceded to be one of the most effective state bar associations in the country.

It seems logical to first set forth briefly the general history of this growth in five eras: 1878 to 1912; 1913 to 1946; 1947 to 1948; 1949 to 1956; and 1956 to date. These phases provide an overview of what transpired. They are followed by 25 definitive sub-histories covering specific bar activities.

Almost nothing affecting the organized bar happen alone or all at once. Programs and services span years or decades, and all are intertwined and overlapped to make up the complex and varied bar programs and organization. Many first surfaced before 1950 and continue today. Some which were at the time highly important (such as fee schedules) have dropped away completely.

It is axiomatic that a viable bar association must be dedicated to serving (1) the professional needs of the lawyers; (2) the courts and public agencies; and (3) the public. The specific sub-histories which follow will cover these three headings, even though many topics overlap one or both other categories. nothing affecting the organized bar happen alone or all at once. Programs and services span years or decades, and all are intertwined and overlapped to make up the complex and varied bar programs and organization. Many first surfaced before 1950 and continue today. Some which were at the time highly important (such as fee schedules) have dropped away completely.

Chapter Five

1878 to 1912 - The Quiet Years

The long period of a relatively inactive bar association

Although the association was established with speed and enthusiasm, activity and progress was minimal for the first 20 years. It was three years before the second meeting in 1881, and another five years before the third meeting. (See table in Appendix B) Not until 1903 did the association commence holding regular annual sessions.

The lack of regular meetings and the fact that those held were either in Madison or Milwaukee is explainable by the fact that the only feasible means of attending sessions was by railroads, which served only the larger cities. Local bar meetings suffered the same difficulties, for transportation within the county was mostly by horse and buggy or cutter. Moreover, during much of the year the roads were next to impassible.

This situation began to change with the gasoline powered automobile, which first appeared regularly in Milwaukee in 1899, and by 1901 in Madison and other cities. No other factor in the past 100 years had such an impact on the law and lawyers, and upon our economy and the public as well. Cars were few and in 1905 only 1,492 were registered by the state. As late as 1907, roads were unsuited by automobiles, and were poorly maintained and unmarked. In that year the State Geological Survey was given responsibility for supervising the roads, but not until 1911 did the state accept any financial support for the highways. Farmers generally resisted the automobile until 1908-09, and their use of cars brought improvement of the road system. All of this development was to have dramatic impact on the practice of law.

Not until after 1912 did the automobile offer a useful means of transportation for lawyers to attend local and state bar meetings. By the end of WW I, autos were taking over from the railroads as "people movers."

At the 1913 meeting of the Association in Wausau, Waupaca Attorney E. E. Brown commented in a most interesting statement:

"I found that the doctors were more interested in good roads than the lawyers, and I attribute that a great deal to the fact that lawyers were not naturally very mechanical, and have not until a very recent date invested in automobiles; but automobiles have now come down to a figure where most lawyers can afford to get one, and they have self-starting devices, so that it is not necessary to crank them up, and I find that a good many of my lawyer friends are buying automobiles and thus becoming interested somewhat in good roads. We did not meet very many good roads coming over from Waupaca this morning, especially after

we got over the boundaries of Marathon County; but I am told that in some parts of Marathon County they are making a good many improvements in the roads. I think that in the next few years we will see a great difference in the roads throughout Wisconsin.

The last legislature has appropriated about a million dollars, and that means the expenditure by the counties and towns and state altogether of about three millions of dollars on the main traveled roads of the state, and I think that will mean a great deal for the state of Wisconsin, especially this northern country. While we may not get as many damage suits, the lawyers will have to meet the progressive laws as they come, in the same manner as we did the workingmen's compensation law, and workingmen's insurance. The lawyers manage to exist, no matter if legislatures do pass laws that are somewhat against the making of business. The lawyers will meet what the legislature does, especially if it is in the line of progress, and I think the good road-making is in the line of progress."

Despite the relative inactivity of the state and local bar associations for the 33 years following organization in 1878, three significant developments occurred which had a vast and lasting impact on the law and lawyers in Wisconsin. These were (1) the advent of the motor vehicle (see above); (2) the enactment in 1903 of the first inheritance tax law and the income tax law in 1911; and (3) passage of the Workman's Compensation Act in 1911. The legal problems growing out of these three fields of law occupied a burgeoning part of the lawyers' practice, and continue to do so today.

In these early years the annual meetings of the state association dealt largely with "housekeeping" problems of the organization. With no staff or office, the volunteers who served on the Executive Committee and as officers devoted most of the time spent on bar matters to arranging for the program of the meetings, acting on committee reports, admitting new members, and for publishing the proceedings. Absent any mechanical method of addressing mailings, notices and other mailings were mostly addressed by hand. Collection of membership dues (only \$3.00) was sporadic and the young association struggled constantly to pay the costs of printing and mailing the proceedings.

The only figures of association membership available are from the lists of members published in the proceedings, which show a steady but slow increase. (See Chapter 11, Membership and Finances). President Strong's special survey in 1881 listed 1,239 resident lawyers in the

state.

It is interesting to note the repeated discussions at association meetings during this period of the raising of the standards and increasing the requirements for admission to the bar of Wisconsin. Bar pressure resulted eventually in passage of corrective legislation. Also noteworthy is the adoption by the association of its first code of ethics in February, 1901.

After years of intermittent annual meetings, the holding of the association's "tenth" annual meeting in 1903 marked the beginning of a series of regular annual meetings.

The early 1900's were marked by little bar activity, by almost a zero-balance treasury, and a static membership. This was exacerbated by the cumbersome procedure to join the association. In 1907 this was eased to allow the Executive Committee to accept applications, and 150 new members joined. In 1910-11, a special effort brought in 217 new members, substantially increasing the roll.

At the 1911 annual meeting the president suggested the first very modest step towards staffing the association, saying:

"...the work of the secretary-treasurer of this association is increasing and burdensome. To meet the expenses, I think that the secretary of the association ought to have at least salary enough to pay his outlay in hiring clerks and such other things as he has to do. I submit the question to the association, and I wish them to consider it before we adjourn. I think that a small salary, a few hundred dollars to the secretary, is not unreasonable for an association of some six hundred odd members. There is a great deal of work connected with the office of secretary. He has to have an office, has to have these books and papers, has to keep track of everything, has to look after the correspondence and it is a great deal of work."

The matter was referred to the Executive Committee with power to act.

A significant turning point in the affairs of the association came in 1912 through the appointment of a very energetic young Milwaukee lawyer, George E. Morton, as chairman of the membership committee. In his report at the 1912 meeting, Morton pointed out the lack of any list of members, the lax dues collection procedure, and the general confusion over procedure to join the association. He attempted to make a correct list of the members, and suggested changes in the Constitution to correct the situation. These suggestions were adopted in 1913, and Morton was at the time elected as association treasurer with an annual stipend of \$50.00 to defray expenses.

This marked the end of 35 years of relative inactivity of the association, and a sharp turn upwards in membership and activity, which was to continue for another 33 years.

Chapter Six

1913 to 1946 - The Years of Trying

The struggles of a volunteer, non-staffed bar association to maintain membership and effectiveness

The election of George W. Morton as treasurer in 1913 and as secretary-treasurer in 1914 gave the association a "second wind" and brought a quick reordering of its membership lists and finances. The zeal and energy of this young Milwaukee lawyer was felt for the next decade and probably saved the inept and poorly organized association from total stagnation.

This era began 33 years of slow growth and limited activity. It suffered the inherent problems of a volunteer staff. Although Morton was voted \$300 a year for his services, his was but a part-time position, with no association office. The whole effort of the association suffered from the deficiencies of volunteerism - a lack of continuity of programs, a lack of money, and no staff support. The bar's program throughout these three and a half decades was largely limited to:

- (1) An annual summer meeting, with program
- (2) Modest committee activity
- (3) Sporadic legislative efforts

But let us not minimize the sum total of what was accomplished in these 35 years by the volunteer efforts:

- The association suffered through two great World Wars
- It survived the great depression of the 1930's
- It laid the groundwork for integration of the bar by commencing 30 years of continued study and effort
- It built a solid relationship with the local bar associations
- It pioneered the early beginnings of our CLE programs
- It successfully handled, with volunteers, the matter of ethics and grievances
- It promoted higher standards of legal education and bar admission
- It absorbed the first flood of post-WW II lawyers
- It attracted an imposing number of talented and dedicated lawyers into bar service
- And finally, took the highly significant step to reorganize the bar and open a staffed office.

A separate story could be written about the impact of the two great world wars on the struggling association, and on the practice of law in general. While WW I did not draw into service nearly the proportion of lawyers as did WW II, and our total involvement was much briefer, there was nevertheless a great disruption of travel and the economy. Little appears in the association records about these problems, except as to the impact on meeting attendance and committee work.

WW II was, however, another matter. The shortages, travel restrictions and legal problems arising from the war effort were onerous but endurable. The real impact came from the drawing into military service of many hundreds of lawyers in the prime of life, taking them from their practices for as much as four to six years. More than military service, the needs for staffing the draft and ration boards, manning government war agencies, service in the FBI, and other fields than the practice of law left whole areas of the state virtually without a lawyer. The impact of this war service was great, but impossible to fully measure. Suffice it to say that hundreds of lawyers served with valor and distinction. If one adds to the numbers of lawyer-veterans those thousands who completed law school after the war, probably 70% of the members of the bar in 1955 had war service. Their training and maturity gave us a truly no-nonsense bar, the members of which were in many ways an entirely new breed from the pre-1940 lawyers. This had a lasting impact on the legal profession of Wisconsin.

The long struggle to integrate the bar nearly succeeded in the early 1930's. If that effort had been successful, it is interesting to speculate what far reaching differences might have occurred. Undoubtedly the association would have had a staffed office 15 years sooner than it did, and perhaps would have come out of WW II with a much faster start. Clearly, the life of this writer would have been vastly different. He was appointed as the first executive secretary in 1948, and served as director for 27 years. Had the bar been integrated in the 1930's, he would never have attained the post, for at the time he was not yet a lawyer and was pointed in a different direction. Who knows what the hand of fate would have wrought?

Special tribute must be given to the two dedicated lawyers who served for many years, at almost no pay, as part-time secretary-treasurers of the voluntary bar. Solely through their efforts were the records kept, the membership dues collected and the meetings carried off. The first was

George W. Morton, mentioned previously. A young Milwaukee lawyer, Morton brought the first order to the association's membership and financial records, even accumulating some temporary cash balances. His energy, initiative and zeal made him effective, much like a gad-fly can keep an animal alert. By 1923, the burdens of the office literally "wore Morton out."

He was followed by Gilson G. Glasier, who was State Law Librarian. Glasier was a quiet, soft-spoken person, meticulous in his work and completely dedicated to serving the bar in addition to his full-time position as librarian. He, too, was paid a modest stipend by the association. The fact that he could headquarter the bar in the State Law Library facilities enabled him to accumulate the store the bar records and publications. In addition, he started the first bar magazine in 1928 and served as its editor until 1949.

The bar owes these two men an everlasting debt of appreciation for all that they did for the organization. Without them, the entire history of the organization would have been vastly different.

From 1915 through 1944, great concern and much debate was had on standards for admission to the bar and retention of the diploma privilege. In 1929 University of Wisconsin Law Dean Richards died and the bar lost a tireless worker on raising admission requirements.

The bar treasury became "fatter" under treasurer Morton, although the dues were only \$2.00 or \$3.00 a year throughout this period. Concern over maintenance of membership was largely solved by a plan of unified membership in cooperation with the local bar associations.

All through the 20's and 30's there was increasing concern over the growing powers and practices of state administrative agencies and commissions.

There was a continuing emphasis on state and local bar relations and cooperation. This built a genuine grass-roots strength for the bar.

The problems of criminal justice and practice received continuing attention and debate, and the law schools were deeply involved.

The bar saw the supreme court increasingly assert its inherent powers over the practice of law through its rule making powers. The court also rejected the legislature's attempt to invade the court's domain by enacting a law to re-instate a disbarred lawyer (the Cannon case).

The tempo of all of these things, and much more, accelerated to give a growing and restive association a fast entry into the next era of organization and expansion.

Chapter Seven

1947 to 1948 - The Crucial Years

The decision to increase activity and to reorganize; The Green Bay Convention; the search for an executive secretary

The end of the WW II in mid-1945 brought with suddenness a booming economy, a plethora of post-war problems, the return to practice of hundreds of lawyer-veterans and a mounting surge of new, post-war lawyers, largely trained under the GI Bill. These forces, combined with the court's rejection in 1946 of the move to integrate the bar and its urging that the association reorganize and "try again", culminated in the drafting of a revised constitution and by-laws, an increase in dues from \$2 to \$12 a year, and the crucial decision to open a full-time office with an executive secretary and supporting staff.

All signs had for several years pointed up the desirability and inevitability of these steps. The needs of the returning lawyers for post-graduate training, the rapidly increasing size of the bar, and the virtual impossibility of an unstaffed organization coping with a multitude of pressures made prompt action necessary.

It was felt by many lawyers that the combination of more members, a paid executive and more funds would enable a voluntary bar association to do the job. There was a general willingness to give it every opportunity to succeed.

Clearly, then, the actions taken at the Green Bay convention in 1947 set in motion the most significant changes since the association was organized in 1878. That the changes were long overdue proved true, but it is difficult to see how they could have been implemented in the war years of 1940 to 1945. The old adage "better late than never" proved to be right, and the lawyers and local bar associations throughout the state entered into the new era with enthusiasm and cooperation.

There was, of course, a general step-up in activity during these two years, but it was greatly handicapped by the lack of association staff and facilities. Nevertheless, the two years were notable for many reasons, including:

- Increased attendance at the convention and mid-winter institute
- Many more regional meetings
- A step-up in post-graduate courses
- The issuing of Real Estate Title Standards
- Attention was focused on providing legal aid to the poor
- Vastly increased committee activity
- Approval of a new and expanded schedule of fees

- The search for an executive director, who was hired in April, 1948 and took office December 1.
- The opening of the association's first office on December 1, 1948.

The stage was thus set for a new day in bar association activity and expansion. By the end of December, 1948, the new executive secretary had obtained office space and staffed the office. With the new year the association joined the ranks of viable, active bar associations and forged ahead to establish a record and reputation nationally for innovation and excellence.

Chapter Eight

1949 to 1956 - The New Bar Association

Growth, consolidation and a "leveling-off"

January 2, 1949 saw a vast step-up in activity and a new spirit throughout the organization. December had been the month of settling in, with the opening of a full-time office in Madison and the launching of a broad array of services to the members.

The officers and board were filled with enthusiasm and the new staff got off to a speedy start. Everything needed to be done, and at once. A detailed story of what was accomplished will be treated under the many topics to follow. The efforts and the programs of the officers and the new executive secretary were welcomed by the lawyers in all parts of the state. In this brief period of eight years, the association converted from a rather sleepy and inactive association to a vigorous organization which met almost 100 percent success in everything it undertook.

A brief summary of what was accomplished in these eight years includes the following:

An intensive campaign of local bar association relations was undertaken. This further cemented the ties between the grass roots organization and the state office, and enabled the Bar to mobilize the membership throughout the state.

The organization and functioning of the several sections was encouraged and within a relatively short period, two of the sections, the Negligence Law Section and the Taxation Section became large and active.

A broad public relations program was launched through the issuing of millions of leaflets for public distribution. This program proved virtually self-sustaining and was extremely popular with both the public and the Bar.

Much closer relations and cooperation with the American Bar Association was accomplished. Both the Bar executive and the Bar officers became active in American Bar Association affairs.

The Wisconsin Bar Foundation was incorporated. This organization would serve as a valuable adjunct to the activities of the state association.

The association organized one of the earliest lawyer's wives groups in the United States. This enabled the undertaking of many programs which have grown in importance and impact on the public.

An intensive membership drive was launched to bring into the association several thousand additional members.

Financial stability of the organization was accomplished. Money seemed to make money, and successive budgets were always "in the black."

A broad program of regional meetings in all areas of the state was undertaken. The programs at the annual meeting and the mid-winter meeting were given a "bread and butter" emphasis. The Annual Tax School, first held in 1949, grew to be one of the major annual undertakings of the association.

The association, threw full support behind a judicial retirement plan for the judiciary, with success.

The association began an active program supporting necessary legislation. Its early successes included enactment of a new corporation code and a change in the statutory limit of allowable fees for representing workers in worker's compensation cases.

All during this period the central office was perfecting its files, its mailing list and its publications. Regular and effective communications with the members was achieved.

The climax of this period commenced with the introduction of the newly elected president Alfred LaFrance, Racine, at the 1955 annual meeting in Green Bay. LaFrance

announced in a brief statement that his program for the year included four things: 1) He would seek integration of the Bar; 2) He would build a Bar Center for the Association; 3) He would reorganize the court system; and 4) He would seek a new plan of judicial election.

As a result of LaFrance's program, planning for a Bar Center building commenced immediately and was underway by mid-1956. A broad and ambitious campaign was launched to finance the new building by contributions. At the same time, a special committee was appointed to prepare a plan of integration for presentation to the court, which was done early in 1956.

Thus, by the end of 1956 the Wisconsin Bar Association was an active and viable organization. It was already attracting national acclaim for its innovations, and through its section activity and intensive program of local bar relations was able to obtain a high degree of communication with the involvement of the members. But despite all efforts, membership and revenues leveled off and the need for participation of all lawyers became apparent.

This era culminated with the approval of a plan for integration of the Bar by the Supreme Court, made effective in June 1956. That opened a completely new phase of activity.

Chapter Nine

1956 - 1986 - Coming of Age

Integration; Implementation of the State Bar; the Growth of Programs, Finances and Effectiveness

Although the vast changes and new energy generated by the adoption of the new constitution and the opening of a staffed office late in 1948 brought a new day to the organized bar, it still suffered from the many difficulties inherent in any voluntary organization. Despite a marked increase in the number of lawyers in the state, Association membership never achieved more than 60% of the total, any by 1955 had leveled off. The renewed effort to integrate the bar offered a solution, and on June 22, 1956, the order of the Supreme Court signaled the beginning of a new era for the Wisconsin Bar. What had transpired in the 78 previous years was important, but what we know as the State Bar in 1986 clearly dates from the order of integration.

It would be duplicative to recite all of importance that has happened since then as the details are covered in the chapters which follow. Suffice it to pin point a few of the most significant events that occurred during these three decades:

- An instant increase in membership, with escalating growth so that the bar has tripled in size, with the budget increasing from \$50,000 to nearly \$3,000,000.
- The building of the Bar Center and the several additions.
- The phenomenal growth of sections and their involvement in State Bar programs.
- Two major court reorganizations, plus a plan of judicial retirement and significantly higher compensation for judges.
- The growth and success of the bar's post graduate education program and the establishment of ATS-CLE.
- A general proliferation of bar activities and programs and the meaningful involvement of many members.
- A maturation of our public relations efforts.
- Redesigning, improvement and expansion of Bar publications.
- Successfully meeting repeated challenges to integration.
- The undertaking of broad programs of law revision and reform.
- The innovation of JUDICARE.
- Computerization of bar records and accounting.

- The involvement of more members through bar divisions.
- Demise of the fee schedule and improved lawyer economics.
- Surging attendance at bar meetings.
- Mandatory CLE.
- Certification and regulation of Lawyer's Trust Accounts.
- The establishing of a Client's Security Fund.
- Split-off of the grievance function to a new Court-created body.
- And much, much more, as is detailed in the following chapters.

These thirty years have been busy ones, and the end is not in sight. There are problems with growth and bigness and the bar is meeting them head-on. It is apparent that the members are on the average younger and better educated, and increasingly more members are female. Perhaps a close reading of what has happened will suggest means of coping with the future. Suffice it to say that the State Bar is alive and healthy, and well able to meet future crises in stride.

Chapter Ten

Governance of the Association

For the first 79 years of its existence the Wisconsin Bar Association operated under the law of unincorporated associations. Following integration, the State Bar operated under rules and by-laws ordered by the court. This is a distinction with little difference insofar as the representation of the members in the governing of the association is concerned. Since its inception the association had a democratic, representative elected governing body. The multiplicity of names applied to the governing bodies makes little difference: Council, House of Delegates, Board of Governors, Executive Committee or whatever were synonymous in effect. By the 1970's representation was conformed to the one-man-one-vote principle as far as possible, and every member given an equal vote for officers and governing board members.

The system of governance established at the first meeting of the new State Bar Association of Wisconsin January 9, 1878, was simple and clear. The purposes of the association were concisely stated to be: "To maintain the honor and dignity, and to increase the influence of the profession of law." No matter how this statement of purposes has been enlarged over the years, it remains essentially as adopted in 1878.

The new association was to have open membership. Judges were to be honorary members, with full vote. Strangely, it was provided that absent members could vote by proxy. Meetings were to be held once a year, and otherwise the executive committee of nine was to conduct the affairs of the association. Election of officers was by ballot at the annual meeting. There were the usual officers, plus a vice-president from each judicial circuit of the state.

Terminology often confuses reality. From the beginning, the area or district representatives on the bar's governing body were called vice presidents. In 1929 a new plan of electing these representatives went into effect. The lawyers in the 20 respective circuits met separately and elected their circuit vice president. Properly they should have been designated as circuit governors or board members, for they did not in any way carry out the customary duties of a vice president. Initially, only four committees were provided for: Judicial; Amendment of the Law; Membership; and Legal Education. The Judicial committee was mis-named, for actually it was the grievance committee, and it promptly adopted a grievance procedure.

Although the first constitution called for an annual meeting, these were not held regularly. Some were in the summer, some in February, some in Madison and some in Milwaukee.

During the early years, running well into the 1920's, the executive committee was truly the governing body of the association. In view of the relatively small

membership and the difficulties of attending annual meetings, this probably most effectively served the membership. The chief responsibility of the executive committee during those years was arranging for the annual meetings.

In February 1905, a matter of great interest to the members and one which had been vigorously debated for several years was ordered to be submitted to a vote of the members. The question was that of amending the State Constitution to permit non-unanimous jury verdicts.

The executive committee continued to be the active means of bar governance. In 1926, the past-presidents were made members of the executive committee. Soon later the circuit vice-presidents were dropped as members.

Committees are the life-blood of any bar association, for it is through them that the effective work is done. By 1931 the bar committees were proliferating. There were by then seven standing and thirteen special committees. It should be noted that all through its history, Wisconsin followed the general pattern of a minimum of standing committees, but liberal use of special committees; and a pattern of small committees, rather than those with large memberships. These patterns still seem to be the most effective ones.

For some years prior to 1932 the executive committee had been made up of the chairmen of all standing committees, plus the past-presidents. In April of that year, A.W. Kopp, chairman of the committee on Organization of the Bar, proposed that the local bar associations of the state (there were 48) be organized into circuit associations. The affairs of the Wisconsin State Bar would then be administered by a Board of Governors, with one governor to be elected from each circuit. The convention adopted the plan.

Under the new system the affairs of the association were administered by the Board of Governors, and not the executive committee. The Board was also to act as the nominating committee for officers. This was the first time that a representative governing board was selected not by a handful of delegates at the annual meeting, but at circuit meetings where all members could be represented. A vice-president was added to the officers, and the Board was to choose an Executive Committee of seven members.

In June 1935, 25 young lawyers met the day previous to the bar's annual convention and led by James H. Van Wagenen of Milwaukee, organized a Junior Bar Conference. They asked for a five-year dues waiver, which was rejected, and announced plans to create a Junior Bar Section of the Association.

Considerable discussion was had regarding the purpose and need for an organization of the younger

lawyers. Belief was expressed by several that their problems were sufficiently different from those of older and better established lawyers to warrant a separate organization. Some stated that the full participation they were privileged to have in the business of their local associations seemed to answer all necessary requirements. Edward T. O'Neill, Fond du Lac, was elected president and John F. Savage, Milwaukee, as vice-president.

The membership of the bar was growing, and so was a need for more direct involvement of members in association affairs. At the 1936 annual meeting in June, it was proposed that the officers be elected by mail ballot. Nothing was done about it.

Virtually nothing happened in the next ten years to change the governance of the association. With WW II disruptions and the belief that the bar might soon be integrated, there was no disposition to alter things.

All this changed as a result of the Supreme Court rejecting integration of the bar in 1945 and the resulting dramatic action taken by the annual meeting at Green Bay in 1947. The convention decided:

- (1) To authorize the Board of Governors to employ a full-time paid executive secretary;
- (2) To increase the annual dues to \$12 (\$6 under five years);
- (3) Adopted a resolution calling for a complete revision of the constitution and by-laws.

The appointment of the committee to draft the new constitution and by-laws set in motion the most significant changes in the bar's governing system since its organization. It was timely, for the post-war bar was growing rapidly and faced enormous challenges.

The ten standing and 19 special committees, plus the sections on Insurance Law, Real Property and Taxation were given a new look when the changes were made.

The drafting committee creditably completed its work on time, and on June 25, the 1948 annual meeting adopted the new constitution and bylaws. This marked the beginning of a new era in bar association history.

Besides the usual officers, the new constitution created a House of Governors, which was to direct the general policy and control of the association. There was one governor for each fifty paid members or major fraction thereof, with each local association to have a least one governor. There was also a Council, consisting of one member from each of 14 bar districts, to be elected by the governors from the respective districts. The Council was to be in effect the managing board of the association, meeting regularly throughout the year.

It is notable that the new constitution continued the system of "affiliation for dues" payment. The duty of collecting state bar dues was made an obligation of the local bars receiving status as component associations. This

system had both advantages and disadvantages, but continued until the bar was integrated.

Twenty standing committees were created, with provision to create special committees as needed.

The new system of governance served relatively well until integration in 1956. A major change in structure was suggested early in 1949 when it was questioned as to whether it might be advantageous to incorporate the association. A special committee chaired by Charles Goldberg concluded that the advantages of incorporation of the association would not out-weigh the disadvantages, and that the status should continue under the general law of associations. (Note that this is not a reference to integration, but to the form of doing business in Wisconsin).

The efficacy of this new system of governance was well-stated by president E. Harold Hallows in February of 1954:

"He emphasized that meetings of the House of Governors on a semi-annual basis are necessary for the proper administration of association affairs, since the House of Governors is the policy-determining body of the association and gives the local bar associations a voice in association management. He reported that either the Council or the Executive Committee had been meeting each month to dispose of administrative affairs, and this meeting of the House was the first scheduled since the new sessions have been brought into being. With the organization of sections for bar officers, corporation and business law, and labor law, we now have seven active sections. All of the sections have been reorganized on a new basis, with a considerable degree of autonomy in the administration of their own activities. Each section is electing from its membership a board of directors which in turn will appoint a chairman. Each section is adopting rules of procedure to govern its activities."

Little of consequence happened in the following years until integration that affected the system of governance. The Rules and By-laws adopted under integration were generally similar to the previous system. The district councilors were replaced by a Board of Governors, elected from the new bar districts. An executive committee continued to be the active body, meeting frequently to handle matters concerning building the bar center. The 29 governors were nominated by petitions and elected by mail ballot along with the officers, giving every lawyer an opportunity to seek election to the governing body.

The Board met only four to six times a year. This

gave rise to a continuing resentment or mild misunderstanding between the Board and the Executive Committee over which body really wielded the power. The tension would occasionally be exacerbated when the Executive Committee met immediately prior to the Board to consider and make recommendations on matters that were hours later to come before the Board. This was eventually smoothed over by clarifications and some limits being placed on the powers of the Executive Committee.

It is a fact, however, that the plan of following in general the system of governance used by corporations (a board elected by the stockholders, with an executive committee and the officers running the day-to-day affairs) worked very well. It became generally recognized that a large organization such as a bar association simply cannot operate on a town meeting plan of government, nor by submitting every important action to a referendum of the members.

An action taken by the Board in 1958 had far-reaching impact on the Bar. A special committee of 24 members, on Legal Economics, was created to advise the board on fee schedule matters and on the economics of the law practice. This committee's work bore ample results.

Another unique committee was appointed in 1966 consisting of members of the association practicing in Washington, D.C. This committee was to assist Wisconsin lawyers and bar officers requiring appointments, information or assistance on matters in Washington. Because the State Bar had so many members in Washington, this committee also served as a focal point for their needs and information. In 1980, this was formalized into a non-resident lawyers division.

By January 1962, 44 percent of the State Bar members were in Milwaukee County. There were special needs for facilities there for the bar's grievance staff, and in that month a branch office of the State Bar with part-time staff, opened in Milwaukee. Quarters were rented from the Milwaukee Bar Association.

With the membership, finances and activities of the State Bar proceeding apace, the input and participation of the elected members of the governing board was all-important. Unlike many associations, where attendance at board meetings is poor, President Don C. O'Melia had this to say in 1956:

"The present Board of Governor's attendance has been absolutely amazing, according to my unofficial records. It is over 97 percent. Your Association problems are discussed as lively as at any school board or town meeting and with full participation. The older members of the board have stated their surprise and joy at these developments and I can assure you that there is a real need for a parliamentarian when you

have 34 lawyers making four and five amendments to the original motion. It is a real genuine pleasure working with these great men, and I hope you're as proud of them as I am."

Early in 1971 the legislature, spurred by several activist members, began a campaign to add lay members to the various state professional boards. The same approach was made to the State Bar. Not until September 1977, did the Board of Governors accede to the idea by approving the addition of three non-lawyer members to the board, and so recommended to the Supreme Court. The court approved.

A new idea surfaced in 1972 when President Cross urged the board to create a new office, Chairman of the Board of Governors. Cross' idea stemmed from his believe that the president was foreclosed from most discussion by reason of his being in the chair; and that the affairs of the board would be expedited if it had an elected chairman who would preside a the meetings of the board and generally direct its functions. He would also serve on the Executive Committee. The idea failed on its first consideration, but a few months later the board approved it and in 1973 the board elected its first chairman.

In 1981 the board petitioned the court for a rules change to give a vote to the three non-lawyer members, as well as to the president of the Young Lawyers Division.

A frenzy of bar programs and activities broke forth in 1980. The Board faced many significant issues, including:

- Creating a Client's Security Fund
- A dues increase
- A proposal to certify specialties
- Creating the Lawyers Committee for Lawyers
- Initial consideration of far-reaching rules changes (Murphy Com.)
- Considering the ABA's drastic changes in the Code of Professional Ethics (Kutak Commission Report)
- Filled a long-standing need by hiring Frank Murphy as communications director

In the following years, the Board continued to be busy facing troublesome issues. These included:

- Problems of admission on foreign license
- Bankruptcy law changes
- Problems of filing amicus briefs
- Early consideration of marital property changes
- Problems with the Board of Attorneys Professional Responsibility
- The review of integration-the Kelly Committee
- A guide for the bar's position on legislation; 60 percent rule.
- Whether to have a House of Delegates (see following)

The most significant proposal to change the governance of the State Bar came in the report of the committee on the rules and bylaws appointed in 1976 under the chairmanship of Robert B.L. Murphy. It was to clarify, modernize and codify the Rules and By-Laws, which had not been substantially changed since 1957. The committee was also to investigate and recommend other organizational approaches which would make the governance of the bar more responsive and efficient. The full committee report was published in the August 1980 Bar Bulletin. Of all of the far-reaching and innovative changes suggested, the truly significant one was that for the replacement of the Assembly of Members with an elected House of Delegates, which would be the basic policymaking body of the State Bar. Management of the bar would be delegated to a 16-member Board of Directors, consisting of the officers and 12 members elected by and from the House. The House was designed to include representatives from each of the 56 local bar associations, representatives from each section, the Young Lawyers Division, the Government Lawyers Division, and some 30 district delegates elected from the present State Bar districts.

Early in 1980 the proposals received the most exhaustive review by the Executive Committee and Board ever given to any matter at a meeting. The debate was long and meaningful, but the result boiled down to a simple fact: the Board preferred to retain its present status, perhaps expanding to include members of various special interest subdivisions of the bar. There seemed to be a general consensus that the present Assembly was not an effective or practical body, but that the proposed House of Delegates simply did not meet the ideas of what the Board would approve.

The matter was then referred to a special committee of the board for further study and report.

The Murphy Committee proposal for a House of delegates was strikingly similar to the governing system of the American Bar Association. No doubt, much opposition stemmed from those who had no faith in the ABA system. A prominent lawyer put it this way:

“I am totally opposed to a State Bar governance structure modeled on that of the ABA, and the proposed House of Delegates/ Board of Directors system is exactly that. If the vocal minority in this state who favor the ABA system feel that it will bring them closer and more informed representation, they cannot have had much experience with ABA governance. The ABA does many good things for lawyers, but its governance structure does not bring the governed closer to the governors than in the present State Bar system. Somehow the “old boys club” concept of governance perpetuates itself in

the ABA.”

Meanwhile, running in tandem with the bar’s study of its structure, the Supreme Court was considering the Kelly Committee report as to the status and functions of the State Bar. The court was aware of the bar’s study efforts, and early in 1983 ordered the State Bar to conduct an advisory referendum of its members to assist the court in considering the Kelly Committee recommendation to change the governing structure of the State Bar, which had endorsed the proposal to replace the existing Assembly of Members and Board of Governors with a House of Delegates and Board of Directors, as proposed by the Murphy Committee.

The referendum went to the members and resulted in their supporting the current governing structure by a nearly three to one margin. That laid the matter to rest, and the State Bar continues to be governed by a 45-member Board of Governors. The Board’s membership includes the bar association’s five officers, the immediate past-president, and 33 members elected from the 16 Bar districts, one from each district except for Milwaukee, which has 13 members and Dane County, with six members.

In 1983 the Supreme Court abolished the Bar’s Committees on Unauthorized Practice of the Law and Professional Ethics. The Bar sought re-establishment of these committees, but was unsuccessful. Later, in 1985, the committees were restructured and reactivated.

An explicit treatment of the Bar’s governing structure and details about all staff and committees was published in the Bar Bulletin in September 1984. This was updated and republished in September 1985, and is a splendid reference book on the State Bar.

Chapter Eleven

Bar Officers, the Electoral System and the Staff

The leadership of the organized bar in Wisconsin depended from the first on an elected president in whose hands the affairs of the association rested. This leadership responsibility was not diminished in 1948 when a full-time staff was provided, although prior to then no president had any effective assistance.

The formative steps giving birth to the association were given impetus by Moses Strong, and it was only fitting that he was elected the first President in 1878.

As titular head of the State Bar, the president could be its spokesman, representative and leader to the extent that his time permitted. To some, the position was largely honorary. To others, it was charged with responsibility. Until staff was provided there was a decided lack of continuity of programs and direction. In actuality, for the first 70 years the president's chief tasks were to appoint committees, preside at meetings and to present an annual address to the convention. The Executive Committee largely ran the association, more or less forcefully depending on the whims of the president.

A list of the 108 presidents to date is appended as Appendix A. It reads like a Who's Who of the Wisconsin Bar, and is replete with prestigious names and personages. It was the writer's privilege to work closely with 28 of these men, from 1948 through 1974, and I can attest to these things: (a) each was as different from his predecessor and successor as could be conceived; and (b) each was dedicated to the Bar and committed to achieve progress in his term.

In perusing this list of 108 presidents it is noteworthy that only two of them served on the Supreme court: Marvin B. Rosenberry (while he was on the court) and E. Harold Hallows. This was not for lack of qualifications or opportunity, for there were many who declined appointment to the court. Mostly this was because of the severe financial sacrifice appointment would entail, or that the individuals were unwilling to exchange an active law practice for the relatively cloistered service as a justice. Nor did the bar presidents aspire to high political office. None served as governor, U.S. Senator or otherwise.

Other notable facts about the bar presidents include:

- (1) None ever sought a second term;
- (2) The geographic dispersion through the state was maximized;
- (3) Few came from large law firms or represented special interests. The "corporate lawyers" never controlled the bar;

- (4) Few could be considered wealthy;
- (5) Two anomalies occurred in this succession of presidents. In late 1947, early in his term, President Marcus Jacobson died. He was succeeded by John P. McGalloway, who served out Jacobson's term, and then his own in 1948-49. Then in 1956, Robert D. Johns, having just been elected as president of the association, was appointed by the court as the first president of the newly integrated State Bar, earning the distinction of having been president of both organizations; and
- (6) The nominating committees, at least since 1948, have informally kept their eyes on the geography of the state in selecting nominees for office. By an unwritten "gentlemen's agreement," it is expected that Milwaukee will have a president every four years. Otherwise, the distribution of candidates has been very wide throughout the state. The "big-city, big-firm" candidates have by no means dominated the presidency.

Commencing in 1941, the bar constitution was changed to require election of the officers by mail ballot, and the office of vice-president was changed to that of president-elect. This was significant, for the president-elect automatically succeeded to the presidency the next year, allowing a phasing-in of duties and providing some much-needed continuity to the bar programs.

In 1928 the constitution was changed to allow the nominating committee to nominate one or more candidates. In 1946, it was voted to require the nomination of two or more candidates for each office. This idea was carried over into the Rules of the integrated bar in 1956, plus permitting other nominations to be made by petition.

From the earliest, the "two or more" candidate concept was controversial. While it offered a choice to the voters and destroyed any semblance of an "up-the-chairs" path to the presidency, it had its drawbacks. First, it led to campaigning, often extensive and expensive and considered by some as unseemly. Often the vote was very close, and on occasion the loser was mortified by a lop-sided result. And not the least of the disadvantages is the fact that all too often the loser simply lost interest in the bar and dropped away. Many have argued that the bar can ill-afford to lose fine and talented workers thusly. No candidate nominated by petition has ever come close to election. But

the system works well.

As the State Bar has grown in size and scope of activity, a conscientious president could make a full-time job of the position. At best, the demands on the president's time are so heavy that many fine potential candidates for the office have felt compelled to decline nomination, usually out of consideration to their families or partners. Although there have been several, only a truly exceptional solo practitioner could cope, and this was years ago.

All things considered, the Wisconsin bar has enjoyed a fine track record in the election of its officers. Elections are democratic, as close to one-man-one-vote as can be, open and have provided outstanding results. Election by mail ballot usually produced a return of over 60 percent of those eligible to cast a ballot.

The history is quite different for the offices of secretary and treasurer. Initially these offices were separate and clothed with the normal duties incumbent upon such officers in a voluntary association. Unlike the presidency, it was customary to re-elect the secretary and treasurer for many terms. The two offices were combined in 1914, and George Morton served until 1920. He was succeeded by Gilson G. Glasier, who served until 1949.

Interestingly, after the association reorganized in 1948, the offices of secretary and treasurer were continued as separate offices, but all of their duties were delegated to the new full-time paid staff. This situation continues to date. In effect, the secretary and treasurer are members-at-large of the Board of Governors.

Since full-time staffing in 1948, only four executives have served in the succeeding 38 years:

Dec. 1948 to Nov. 1974	--	Philip S. Habermann
Nov. 1974 to June 1977	--	James E. Hough
June 1977 to Jan. 1978	--	Michael Price (Acting)
Jan. 1978 to Present	--	Stephen L. Smay

The executive director is not technically speaking an "officer" of the association and has no vote on the Board or Executive Committee, but for all practical purposes he is considered one. The paid executive is in fact the chief administrative head of the Bar staff and is responsible for the day-to-day operation of the association. This contrasts with the president, who is the titular head and chief executive officer. The executive director furnishes the continuity that is so essential, and under the direction of the officers and Board carries out the programs and policies of the association. The success or failure of the bar depends to a considerable degree upon the initiative and ability of the executive, and his willingness and adeptness in keeping the numerous programs and committees running in a fully coordinated manner.

The slow but inexorable progress towards having a paid executive is interesting. It is a sad commentary on the legal profession that it took so long to put its own house

in good business order.

As early as 1913 the Bar voted \$50 to the treasurer to cover his expenses. After the positions of secretary and treasurer were combined in 1915, compensation of \$300 a year was set, and this was increased to \$700 in 1919.

At the 1914 convention, the executive committee was directed to employ a paid secretary or assistant secretary at such salary as they deemed proper. Unless one considers the above modest stipends as carrying out this direction, nothing was done to follow through on the wishes of the Executive Committee.

Since the Roll of Attorneys was maintained by the Supreme Court, in July, 1915 the clerk of the Supreme Court was designated as ex officio assistant secretary of the association, to keep and preserve its documents, records and books.

Morton, who had served since his election in 1913, refused to accept re-election in 1920. Gilson G. Glasier, the State Law Librarian, was then elected as secretary-treasurer, and continued in that post for 30 years.

The pressures and duties that fell upon Gilson Glasier increased steadily. In 1934, he said "The Association needs a full-time secretary and secretarial force." He added that one way out of it was a unified bar, the proposition then being under full debate. The suggestion fell upon deaf ears, except that eleven years later his salary was increased to \$150 per month.

When WW II ended and law practice resumed with a backlog of problems and work, the pressures for the association to become active grew. In September 1945, President Quincy Hale set forth, in truly omniscient fashion, his program and recommendations as to new lines of work the association should undertake, as follows:

1. The Association should publish and send to members a minimum fee schedule.
2. Appoint a committee to revise the corporation laws.
3. Appoint a committee to investigate the lobbying laws of the state.
4. Appoint a committee to study county court forms with a view to having them simplified.
5. That the Association work out some form of legal aid in each county, possibly through the directors of poor relief.
6. Create a committee on transportation problems.
7. Create a committee to formulate standard title examinations similar to what has been done

by the Iowa State Bar Association relating to the examination of abstracts.

8. Create a committee of uniformity of practice in county courts having civil jurisdiction.
9. Appoint a committee on labor laws.
10. Sponsor a tax clinic either in Madison or Milwaukee.
11. Appoint a committee on consumer credit.

President Hale expressed the opinion that in order to undertake these projects the Association needed funds with which to hire an executive director to carry them out since the secretary's office with the present setup was not organized to carry on an expanded program like that suggested.

Again, for the time being, nothing was done.

In April 1947, Glasier informed the board that the work of secretary-treasurer was too heavy for his office, and expressed his belief that the Association should have a full-time Executive Secretary. The president appointed a committee to consider means of raising funds, and to report back.

Two months later the annual meeting revamped the Articles and By-laws, raised the dues, and set the stage for the hiring of a full-time staff. On Aug. 22, 1947, the wheels began to turn. A special committee of three eminent lawyers (Gerald P. Hayes, W. Roy Kopp and Maxwell H. Herriott) was appointed to investigate means of choosing an Executive Secretary, the salary to be paid, and other considerations. The committee lost no time, and in the November issue of the Bulletin published a full-page announcement inviting applications for the position, at a salary of from \$5,000 to \$6,000 a year. The committee received a number of applications and by April 23, 1948, had narrowed them to two, which names were presented to the board. After interviewing the candidates, the board lifted the salary limit to \$10,000, and referred the selection back to the committee. The committee reported back on May 21 that it had further investigated the possibility of finding other candidates for the position than the two previously recommended; that the committee had inquired into the salaries in other states and had also inquired of the ABA only to find that that association had no list of candidates and no one to recommend; the committee also considered association finances and felt that it should be a bit conservative in the amount of salary offered in the belief that the starting salary should be at a reasonable level and that offering a higher salary would not result in getting better men than those heretofore recommended. The committee therefore recommended the same two candidates. The merits of the two candidates were discussed at

length.

The board then thanked the committee for its splendid service, and by a secret ballot chose between the two candidates, selecting Philip S. Habermann, of Madison. (The candidates were Habermann and Roland Haertle, Milwaukee).

Habermann had informed the Board that because of his commitments to the State Legislative Council, of which he was executive secretary, that he could not assume his new post until Dec. 1, 1948. In August, the Board set his salary at \$625 a month, and authorized the new executive and President McGalloway to contract for office space in Madison and for the necessary supplies and equipment for the office.

Offices at 114 W. Washington Ave. were leased, and on December 1 the new executive and a staff of one secretary got under way.

If this writer may be permitted to indulge in a personal reflection, it is interesting to note that I never applied for the position of Executive Secretary of the Association. I was fully and happily employed by the Legislative Council, with an apparent fine future in that slot. What happened was that following the Green Bay convention in 1947, where it was decided to employ a full-time executive, two University Law School professors wrote to President Jacobson recommending me based on my previous experience with a statewide association. The letter was found in Jacobson's files after his death and was forwarded to the search committee, which in March was hard at work and not satisfied with the list of applicants. The committee telegraphed me immediately to ask if I would be interested in the new position. I responded that I would be pleased to discuss it with them, and a few days later was invited to meet with them in Milwaukee. A second interview followed, after which the committee reported to the Board in a lengthy letter detailing the qualifications of the two candidates. The committee concluded that the candidates were equally qualified, but recommended that Haertle be hired because he would accept the position for \$6,000 a year, whereas I asked for \$7,500. (I had been unaware that the top salary limit had been raised.) In any event, I was chosen, and for better or worse, the bar and I had taken a first step on a long and challenging path.

Staff Growth

In addition to the bar executive, the staffing of the Association's office grew at a steady pace until recently, when it leveled off. The earliest staff was a part-time secretary serving Gilson Glasier prior to the end of 1948. When the Association office opened, the Executive Director had only a secretary, but soon added a bookkeeper and then a workroom and mailing clerk. When the staff moved to the new Bar Center in August 1957, there were only two secretaries, a bookkeeper and a mailing room clerk.

As the membership zoomed after integration, a

grievance counsel was added, then a part-time public relations assistant. In 1960 an assistant to the executive director was added, and in 1969 a full-time public relations assistant came aboard. Additional clerical and stenographic assistance was added, but as late as 1970 the entire staff consisted of only ten persons. Two additional lawyers were added as staff assistants in 1972.

In 1966 Warren Resh retired as an assistant attorney general and joined the bar staff in the capacity of special counsel, where he served for 16 years.

Early in 1975, Arnold LeBell, formerly the Supreme Court reporter, joined the staff to write synopses of Supreme Court cases, and later appellate court decisions, for the Bar Bulletin. He served until the end of 1986.

ATS started slowly, with only one secretary in 1970 and by 1974 had only two persons assisting the CLE director, who himself was the chief State Bar staff assistant. By this time the grievance counsel had an assistant, plus a part-time investigator in the Milwaukee office and two secretaries. In 1977 the grievance staff was taken over by the Court and moved out of the Bar Center.

The expanded programming of ATS led to a rapid growth in its staffing, and the increase in Bar activities also required additional personnel. Thus, by 1980 there were seventeen persons assisting the executive director, plus seven more working for ATS-CLE. Other positions added later included a meetings director, and a law office management specialist. The communications staff, which edited all publications, had grown to 4-1/2 by 1982.

Chapter Twelve

Membership Growth and Finances

Dry facts and figures make for uninteresting reading. How is a compiler of bar history to tell an interesting story of the growth of membership and finances of a bar association over a span of 108 years?

It is well established that at a minimum a bar association must have members plus a successful collection of dues. For 70 years the Wisconsin Bar Association had, literally speaking, neither. It was so loosely organized, so dependent on volunteer help, and so completely unstaffed and inefficient that it led a life of penury, if not poverty. Only by the grace of unstinting volunteer effort by many fine lawyers did the semblance of an association hold together.

What membership records can be pulled together bear out the never-ending struggle to maintain the association. By February 20, 1878, 292 lawyers had signed the roll of the new organization. By 1881, there were 353 members out of a lawyer-population in the state estimated to be slightly over 1,349 with 1,200 in true practice. By February 1899, membership reached 538, but by 1900 had dropped to 471. Worst of all, in 1903 the treasurer reported that only "about 150 were paying members."

Although the financial needs of the fledgling organization were certainly nominal, consisting mostly of paying for the published annual reports and meeting expenses, the annual dues of \$2, or in some years \$3, were scant, indeed. Moreover, judges and life memberships cut the number of dues payers considerably.

The framers of the association's constitution had unfortunately provided a cumbersome means of joining the association. A lawyer had to apply, and the annual meeting had to accept the application if it was recommended by the membership committee. This was not changed until 1919.

It is interesting to note that even so great a profession as the Bar in Wisconsin had no official or correct list of all lawyers in the state, or their addresses, until after the integrated bar commenced operation on Jan. 2, 1957. When the association organized in 1878, the only records of admission were in the several clerk of court's offices; and only these clerks had any record of the lawyers practicing in their counties. The Supreme Court now maintains a Roll of Attorneys, which each new lawyer signs upon admission. Although every lawyer new admitted has his or her name on this roll, with the address as of the day of admission, this record becomes out-of-date almost immediately. The court has no means of recording deaths, removals from the state or changes in address. Hence the roll is only evidence of admission, but of little further use. Anyone experi-

enced in association records knows that there is about a 25 percent change in addresses each year.

In 1908 the constitution was amended to set the dues at \$3. Previously they had been established each year. But times were hard for the association. The balance on hand was only \$7.90, and the treasurer was authorized to borrow not to exceed \$500. Although 1908 showed only 363 members, things began looking up, as the treasurer reported "We have 150 new members or more." In 1910 a poll of the court clerks showed 1,784 lawyers in the state. There were 29 county bar associations, and by 1911 the association had about 800 members.

The new secretary-treasurer Morton breathed life into the membership roll and the treasury in 1913-14. He installed the first card file of members and accounts, and with surprising efficiency reported for 1914 collections of \$2,267.91 (over 1,000 paid at \$2) and a balance of \$1,931.09. This was the first turning point in the association's history. But things slipped back quickly.

In 1916, President Hudnall reported that of the 1,750 lawyers in the state, only 500 were members of the association. This included about 30 honorary and 64 judicial members. Hudnall's plea was, "Our first great need is increased membership."

1918 saw the exemption of life members of all who were members for 25 years and had paid dues for 15, and also provided for honorary membership. Membership was only 553.

In June 1919, the membership procedure was eased so that an applicant automatically became a member upon receipt of his application, with two recommendations, and payment of dues to the treasurer.

For 1921, dues were increased to \$5. This had no adverse effect on membership, which for 1922 showed 575 paid and 49 life for a total of 624.

A count of lawyers in Wisconsin listed in Martindale-Hubbell Law Directory for 1922 showed 1,1803 with 635 of them in Milwaukee County, a distribution not unlike that of today.

A significant change in dues collection procedure was made in 1924 when the idea of unitary dues was adopted. Under this plan of affiliated membership, the lawyers joined the local bar association to which they paid both local and state bar dues, the state portion of which was remitted to the Wisconsin Bar treasurer.

The age of mechanization and modernization impacted the Bar in 1925 when Secretary Glasier first used the Addressograph for the Bar's mailing list, having 1,000 stencils cut. This greatly expedited mailings in

terms of time and accuracy.

Conservatism prevailed. In 1926 the Executive Committee rejected a proposal that the association print and issue membership cards. The same proposal breezed through without dissent in 1932.

The affiliated association and unitary dues idea worked very well. Only 1,265 members were on the 1926 roll. By 1928, this had increased to 1,528, representing over 75 percent of the lawyers in the state. Forty of the counties had affiliated and were collecting dues. This gained to 46 counties in 1929, with 1,670 members, or nearly 80 percent of the state's lawyers.

The association's membership included an increasing number of women lawyers, many well-known and active in public affairs. In January 1928, President Boesel appointed a committee to "interest all the women lawyers in the state in work of the Association and endeavor to get them to attend the annual meeting." Kate McIntosh was chairman, and Miriam Louis Frey, Dorothy Walker, Virginia North and Grace D. Meyers were members.

Membership remained low and static until after WW II. It is interesting to note that in 1930, the American Bar Association had a total membership of 28,000 out of 125,000 lawyers in the country. In that year, the WSBA had 1,585 out of 2,550 (est.) in Wisconsin, a good record under the circumstances. Yearly totals crept slowly upwards: 1931-1,744; 1936-1,776 (membership included 40 percent of the lawyers in Milwaukee and 50 percent in Madison); on July 1, 1936, there were 1,469 non-members in the state. By 1937 there were 1,791 members, including 130 life members; by 1938, 1,908; and by 1941, 2,018 members.

The 1940 Federal census listed 3,405 lawyers in Wisconsin. Thus matters stood during the war years, awaiting the explosion of lawyer population post-1945.

Meanwhile, for years the association's treasury existed on a hand-to-mouth basis. The December 1930 action of the Executive Committee was typical: "the Secretary is authorized to borrow enough money to pay for printing and distributing the annual proceedings, until sufficient can be collected from dues to take care of same."

Recognizing the problem, in 1931 the Executive Committee created a committee on Budget and Finance, to "give attention to the finances of the association and formulate a budget."

The affiliated association plan produced a small surplus of revenue for several years. The Executive Committee in 1931 recommended that the association ought always keep a \$5,000 reserve. However, the best laid plans of mice and executive committees often come to naught; after a six-year decline in dues, the treasurer reported that the operating losses had totaled \$5,155 and urged that the dues be increased from \$3 to \$4.

So desperate was the money crunch that in October of 1946 the board voted a voluntary special assessment of \$2 in anticipation of a deficit for 1947.

Thus, the long and sorry state of financial penury continued until the association reorganized in 1947. In association affairs "money makes the wheels go round," and lack of funds meant a dearth of bar programs. But inevitable changes were just peeping over the bar's horizon.

The momentous changes made at the Green Bar convention in 1947 (see chapter on governance) brought a modest but significant increase in dues revenue so that by the time the revamped association opened its first staffed office on Dec. 1, 1948, there was \$28,000 in the treasury.

With the revitalized association expanding activities and stepping up the solicitation of members, the situation improved, but only slightly. Dues were billed from Madison, but the local treasurers still collected them and forwarded the money to Madison. The association was handicapped by lack of a complete list of all lawyers. In May 1952, it was estimated that there were 4,218 lawyers in the state, of which only a bit over 60 percent were association members. But June 1953, membership reached 3,200 but this included several hundred life and honorary members who paid no dues. Membership seemed to hit a plateau which it could not break.

The post-war surge of new lawyers began to impact the bar. In seven years from 1947 there were 2,148 admissions, or almost half of the lawyers in the state. Figures for 1954 showed a total of 4,757 with 500 in Dane County, 1,800 in Milwaukee County, and a bar membership of 3,450. This remained more or less static until the bar was integrated and the new enrollment commenced in January 1957.

After integration, a combination of many more members and dues that had been increased to \$15 in 1955, brought relief to a lean treasury. By August 1957, the president remarked, "There are more lawyers in the state than anyone suspected." Membership enrollment had by then reached 6,300 including 1,000 out-of-state members. The surge of new admittees continued, and by the end of 1958 the bar had 6,709 members. Milwaukee had turned up many more lawyers than had been anticipated, showing 2,407 by that date. Dane County was only beginning its explosive expansion, and had then only 633. By February 1971, the total membership hit 8,302, including 6,414 active, 1,690 inactive and 198 judges.

Increased membership brought stepped-up activity and a need for more funds. In 1962, dues were raised to \$20 and \$10. In 1971 the top dues went to \$40.

The impact on the budget was significant.

Income for 1970 was \$222,000 and expenses \$197,500. For 1971 this jumped to \$395,000, with expenses of \$262,000. It should be noted that from 1949 to 1975 the association followed a conservative budgetary policy, usually running a slight surplus each year and building a reserve that both yielded income and cushioned against unanticipated needs.

A completely new and creditable thing happened in 1970 that had significant impact on bar operations. With the creation of the ATS/post-graduate training activities, a new source of funds appeared. ATS was designed to be self-supporting, and indeed it was. For 1970, it had income of \$50,450 and expenses of only \$18,291, building a reserve of over \$32,000. This was largely because most administrative costs were born by the association. For the future, ATS funds were segregated, but soon grew to the million-dollar operation it now is. (See Chapter 16)

In 1975 the court ordered that emeritus members (those over 70) pay no dues. This cost the bar an increasing amount as the emeritus class grew. The court rejected the Bar's attempt to change this in 1980.

Following the retirement of the long-time executive director at the end of 1974, a flurry of new expenses and expansions virtually exhausted the bar reserves and by mid-1976 it was apparent that the dues needed to be increased, or programs cut back. The Board of Governors petitioned the court in June of 1976 for a dues increase to \$100 a year, which was a 150 percent increase. The court heard the matter with expressions of incredibility, and on October 1 allowed only a \$20 increase to \$60.

In March of 1976 the board voiced concerns about its financial management and planning and created a special Finance Committee of five members. The committee was to assure good financial checks and balances, and to assist in the budgetary and financial controls.

With the court's rejection of the dues requested, the Board struggled valiantly to balance the 1977 budget. Needs for computer and mailing equipment and for new activities such as lawyer referral and prepaid legal services, plus substantial increases in staff and salaries, posed insoluble problems. Although membership was growing about 700 a year, the added costs to service the new members negated any gains. The 1978 total was 8,324 members.

Again, in 1978, the Board petitioned the court for dues of \$100. This ran head-on into the split-off of the disciplinary functions, and the court ordered 1978 dues of \$90.25, of which only \$60 was for the State Bar and the balance to pay for the Professional Responsibility and Professional Competence boards. The Bar, however, was relieved of any costs for these two boards.

For accounting reasons, the Board voted in 1978 to change the fiscal year to run from July 1 through June 30. The dues year was also changed to conform to the new fiscal year, resulting in a one-time gain of a half year's dues.

With increased membership and dues, plus the ATS funds, the Bar's total budget was beginning to be "big business." The accounts and dues records had been put on computer, and in 1979 the new executive director received approval of changing the Bar's budgeting and accounting system to a modern system of functional accounting. This enabled better financial control and showed exactly the dollars devoted to the various functions, on a cost-accounting basis.

Again, in 1980, the Board recommended and the Assembly approved \$75 dues for 1980, \$90 for 1981 and \$100 for 1982. The Assembly's approval was pursuant to the court's order changing the means of establishing the dues. Under this change in Rule 1, Section 5, the setting of State Bar dues must be by vote of the membership at the Assembly meeting or in a referendum of the members.

The figures on admissions 1980 - 85 are interesting. While the diploma and bar exam categories held relatively stable, there was a 700 percent increase in those admitted on foreign license. Bar membership totaled 14,500 at mid-1986. The following table is interesting, and appears to point to a continued increase of six percent or more a year.

Year	Diploma	Bar Exam	Foreign License	Total*
1980	442	182	27	651
1981	451	128	65	644
1982	452	198	84	734
1983	430	182	109	721
1984	442	184	142	768
1985	426	200	193	819
Total	2643	1074	620	4337

*Figures from Supreme Court Clerk

Chapter Thirteen

Admission to the Bar

How one gets to be a lawyer and the stringent requirements for admission to the bar are today so clearly understood that it is easy to forget that as recently as five decades ago the situation was quite different. Indeed, the lax standards for admission to practice were one of the principal reasons for the organization of the association in 1878. In his inaugural speech, President Moses Strong urged the new association to push for a law regulating admission to practice, decrying the existing lack of any standards or qualifications. On February 20, 1878, the association resolved "that it is in favor of strict enforcement of the laws of this state regulating the admission of attorneys."

The history of bar admission in Wisconsin ought to be preserved here for posterity.

Under the laws of Michigan in force in 1836, when Wisconsin was created a separate territory, permission to practice as an attorney could only be gained by a citizen of the United States, resident in the territory for one year, after examination by the court or by persons learned in the law appointed by the court or judge for such examination; and to entitle the applicant to examination, he was required to procure from some attorney or counsellor whose moral and legal character was well known to the judge or court, a certificate that the applicant was of good moral character and had regularly and efficiently studied the law for three years, or had attended some approved law school or university upon a course of legal lectures, or lectures connected with legal science, for not less than one year, and studied the residue of the three years with some attorney.

The legislature of the new territory at its first session in December, 1836, reduced the period of residence from one year to three months, and the period of study from three to two years, to be pursued in the office of some reputable practitioner in the territory or in the United States, with a proviso that a portion of the two years might be spent in attendance upon law lectures at an approved law school or university.

In a compilation of the statutes of the territory made in 1839, the requirement of citizenship, or of any period, place or kind of preparation was eliminated, and the supreme court and district courts were respectively authorized to grant a license to any applicant who should show to the satisfaction of such court that he was in fact a resident, of good moral character, and possessed the requisite knowledge of the science and practice of the law. This placed the whole matter in the discretion of the court.

It remained for the legislature of 1849, at the first session of the body after Wisconsin become a state, to take away from the practice of the law, so far as could be done by statute, even the semblance of a professional character,

by requiring the judges of the supreme court, or of any circuit or county court in the state, to grant a license to every applicant for admission to practice as an attorney in such court, upon the sole condition that he should show satisfactorily to such court that he was a resident of the state and of good moral character. Ignorance and inexperience were no bar. No evidence of fitness or competency for the grave responsibilities and duties of the office of attorney was required. The law declared that if his moral character were good, he was sufficiently qualified to be commissioned and recognized as an officer of the court, and entitled to exercise the powers and enjoy the privileges of that office.

This extraordinary statute became part of the revised statutes of 1849, and was re-enacted in the revision of 1858, and continued in force until 1861. For twelve years the door of admission to the bar was indeed wide open, and the practice of the law the privilege of every resident of the state of decent personal character.

In 1861, the legislature of the state gave some evidence of returning sanity by the passage of a law requiring the applicant for admission to the bar to satisfy the judge of the circuit court by examination in open court by such judge, or by commissioners appointed by him, that he possessed sufficient knowledge to entitle him to practice as an attorney.

It was said that the law requiring that license to practice as an attorney be granted without regard to previous study or preparation of any kind was not acted upon literally by the courts, but some form of previous examination was usually observed; but such examination, if held, was usually an empty form, and the result was that great numbers of persons were enrolled as attorneys who had neither education, training nor mental endowment to fit them for the profession of the law. The men who effected such legislation certainly had no conception of the true function of the lawyer under a government founded upon legal rules and principles and administered in the spirit of right and justice. They could not have regarded him as an officer of the court, commissioned to aid the court in the wise administration of justice, but rather as a hireling advocate employed to win lawsuits by arts and devices requiring more cunning than conscience, more ingenuity than learning.

The continuance of this condition for so many years was doubtless due to the fact that the reputable lawyers of the state were not organized and were little disturbed by these professional rivals; in fact, the gross errors of incompetent and ill-bred attorneys -- so called -- contributed in no small degree to increase the need of competent legal service in their correction, and were an

undoubted source of pecuniary profit to the educated and skillful members of the profession. The act of 1861, requiring some examination as to learning and ability before a license should be granted, indicated a purpose to place the profession of the law on a better footing. In practice, it had little effect. Examinations which had fallen into disuse or were generally meaningless, continued to be so. Each circuit judge executed the law according to his own conception of duty in the absence of any standard of preparation or attainment.

The law of 1861 was re-enacted in the Revised Statutes of 1878 and remained unchanged except by an amendment requiring the examination to be had in the circuit court to the applicant's residence, until 1885. Meanwhile, the law department was established in the State University and a course of study under able instructors was prescribed for students in such department.

In 1870, it was provided by law that graduates of this department should be entitled to admission to the bar upon their certificate of graduation. This has ever since been known as "diploma privilege".

In 1885 a law was passed providing for the appointment by the Supreme Court, annually, of a board of five attorneys for the examination of applicants for admission to the bar, and requiring such board, upon examination being had, to issue to such applicants as they should find possessed of sufficient ability and learning in the law, and otherwise qualified, certificates of qualification for admission to the bar. To be entitled to examination, each applicant was required to produce to the board satisfactory evidence of good moral character and of having pursued the study of the law for at least two years. Upon the certificate of this board, the holder was declared to be entitled to admission, and only the holders of such certificates, or graduates of the law department of the state university, or persons admitted to practice in the supreme court of any other state or territory and having been engaged there in actual practice at least two years, were to be admitted to practice in this state. But admission still continued in the various circuits.

This was a very great advance, and went far to restore the profession of the law to its true honor and dignity. Little regard was paid to the general education or attainments of applicants for admission to the bar, or students seeking the benefit of a course of legal study in the State University. The law regulating examinations by a state board, while it required the pursuit of the study of the law for two years prior to examination, neither required general education or mental training preparatory to such legal study, nor the pursuit of such study in a law office or school, or as the chief employment of time and energy during the two years prescribed for such study.

Upon report presented to the bar association at its annual meeting in 1899 by the Committee on Legal Education a bill was presented intended to raise the

standard of qualifications for admission to the bar through examination by the State Board and extending the period of law study to three years to conform to the University rules adopted in 1894, and requiring a high school diploma for admission. The bill, however, failed of passage. The bar's committee on Legal Education continued to press for a three year period of legal study, and in 1903 the legislature passed an act so requiring. In the same year the Regents of the University passed a rule requiring all candidates for the degree in law to present one year of college work in 1905, and two years in 1907. This action was looked upon as radical, since no school west of the Alleghenies, except the University of Chicago, and no state university law school, required more than a high school education for admission. After January 1, 1905, a Supreme Court rule required all applicants for admission to have a four years high school or a certificate of examination.

In 1915 the committee reported in favor of requiring prelegal college study of all applicants for admission. It was voted to memorialize the Supreme Court to consider the propriety of making a rule to that effect.

In 1916 the reply of the court was received. While the court expressed itself in favor of a broad education as preliminary to the study of law, it concluded that it would be inexpedient to make such a requirement at that time.

In 1917 the committee again reported in favor of requiring two years of prelegal college work of all applicants for admission. After some discussion the report was laid on the table where it remained until 1924. The delay in action was due to a desire to give members an opportunity to consider the matter fully before action, and to have the result of the proceedings of the American Bar Association. The action of that body taken in 1921 expressed its opinion that the following minimum requirements should be adopted as the standard for admission to the bar: a high school education, two years of college and three years in a full-time law school, or four years in a part-time or evening school, such schools to have an adequate library, and a sufficient number of full-time teachers to insure personal acquaintance and influence with the entire student body. The position was approved at a meeting of bar association delegates held in Washington in February 1922.

In 1922 the action of these bodies was laid before the bar association. Owing to changes in the personnel of the committee, some differences of opinion developed in 1923, which led to postponement of action to enable the formalization and presentation of opposite views.

In 1924 the Association voted its approval of the American Bar Association standards. In June 1926 the Supreme Court in substance adopted the standards approved by the Association. Applicants who studied in law offices could still be admitted, but they were required to register with the Board at the beginning of their study and must study four years in addition to satisfying the high school and college requirements.

The Regents of the University in 1926 further extended the requirements of the law degree by providing that three years of prelegal college work be required of all candidates for the law degree entering after Jan. 1, 1929, plus the three years in law school.

Clearly, the Wisconsin Bar Association had over the fifty years since its organization played an important and effective role in increasing the standards for admission to the bar. In his report in 1928, Dean Richards paid tribute:

"Since the organization of this Association, it has held thirty-six annual meetings. Your Committee has made sixteen written reports, which are printed in the proceedings. It has presented twelve informal reports.

"During the Life of this Association, the State of Wisconsin has passed from the relatively simple relationships of the frontier to the complex economic and social conditions of the present day. The constant advance of state control over the activities of its citizens has added difficult legal problems, which demand broader and more intensive training for those who are to advise citizens as to their rights, or who are to serve as judges in the courts of justice.

The requirements for admission that have advanced from time to time through the activities of this Association have been designed to keep the profession abreast of its increasing duties. The changes throughout the nation in this field have been almost revolutionary. When the Association was organized, the great bulk of the new recruits came to the bar from the offices. Law Schools were few in number, and for the most part without standards. All that has changed almost within a decade."

Deep-seated concerns of some bar members led to proposals indicative of these sentiments. In 1914, the committee on Legal Education was directed to "investigate whether there is a practicable means to limit admission to practice to those who can and will be efficient officers of the court in fact, and the number of such be limited as the number of all public servants should be limited, to somewhere near the need and demand". The committee reported in 1915, rejecting the idea of any limitation on admissions.

The committee on Legal Education worried for years over character study, and in 1930 voiced its concern, saying "it feels it advisable to withhold final certification to full membership in the profession until after a period of actual experience, for further observation and character study". No action was taken, but the same idea surfaced periodically for many years.

In 1931 the bar association confronted the legislature in what is known as the Cannon Case. Cannon, a Milwaukee lawyer, was under suspension by the Supreme Court. An application for reinstatement was pending. (State v. Cannon, 199 Wis. 401). The legislature, not

appreciating the distinction between legislative and judicial powers, enacted Chapter 480, Laws of 1931, attempting to set aside the judgement of the Court and to reinstate Cannon to practice. The Bar's Judicial Committee filed a brief in the Supreme Court challenging the constitutionality of the legislature's action. This was with approval of the Executive Committee. President Clarence J. Hartley commented on this action:

"It has been seriously contended that the Judicial Committee has no authority to submit the brief, and also that it was entirely outside of the proper function of this Association. It seems self-evident that this Association is directly interested in the question as to whether the power to disbar or suspend an attorney is a matter for judicial consideration, or whether the right to practice law is a privilege to be extended, or withdrawn, by the Legislature in individual cases, or at all."

In a masterful decision by Justice Owen, the Court set forth the proper functions of the Court, and invalidated the legislature's attempt to inject itself into the domain of the Court.

While the U of W law students had long enjoyed admission on presentation of a diploma, it was not until 1931 that the legislature amended the law to permit the graduates of any law school in the state which the Supreme Court found to have standards as high as those of the University of Wisconsin Law School to be admitted on diploma. This imposed an unwelcome duty on the Court.

In January, 1932, Clifton Williams, Dean of Marquette University Law School, wrote the bar committee on Admission to the Bar, saying: "You are authorized to state anywhere at any time that Marquette University Law School is opposed to the diploma privilege ---".

The bar committee recommended that the law be changed to its original form, granting diploma privilege only to the U of W graduates. However, in 1933 the "Fons bill" was enacted extending diploma privilege to Marquette University Law School graduates. That school acceded in 1935, when the school also made three years pre-legal college work a requirement for law school admission.

The bar continued its quest for higher standards for law study. In 1938, the committee on Qualifications for the Bar recommended:

- a) That law office study be abolished;
- b) Three years of college training be a required pre-law prerequisite.

These requirements were adopted by the Supreme Court June 3, 1940, ending the more than 100 years during which law office study was a means of gaining admission to the bar.

In 1936, President Oestreich raised the problem of

overcrowding of the bar, calling it "an apparent over-supply of members of our profession". Taking issue with the findings of a recent University of Wisconsin Law School survey which found that there was no overcrowding of the profession, Oestreich urged:

"I am wholly convinced that the bar owes it, not only to itself but also to society, that its membership be restricted to such number as can adequately do the professional work of society; to the end that those so engaged may perform their family, social and professional obligations; among which latter are service to those who cannot pay and whose just cause should never be excluded from attention because of that inability. Thus only is it possible for a great profession to justify by performance the high social position which it deserves. In the interest of professional and social welfare, I earnestly recommend to the bar of this state a thorough study of this important subject."

No action was forthcoming, and although even today some voice the sentiment that "there are too many lawyers", no move to limit the numbers has ever gained support.

Immediately post WW II there was a serious proposal that a six-month apprenticeship ought to be a general requirement for admission. The committee on Qualifications for Admission to the Bar studied the matter and recommended against the proposal. However, at the June, 1946 annual meeting, by voice vote the business session adopted a resolution that the Supreme Court should by rule require, as a condition to admission, evidence of substantial practical experience in the law office of a member of the bar who has been admitted to practice at least five years. Apparently there was no follow-through, and nothing came of this resolution. As a practical matter, in view of the great number of post-war law graduates, there would not have been enough lawyers with the required five years experience to handle the multitudes who would seek such practical experience.

In 1954 the matter of discontinuing the diploma privilege for Marquette and Wisconsin law graduates surfaced. The many graduates of prestigious national schools such as Harvard or Michigan voiced umbrage at having to take the bar examination, which in effect postponed their admission by several months and often necessitated taking an expensive review course. Pressure was coming from the ABA, which had long opposed diploma privilege and pointed out that almost every state had abolished it. Further, some states would not admit Wisconsin lawyers on reciprocity since they had not taken a bar examination.

The matter was referred to a study committee, which reported in January, 1955, as follows:

"When all is said and done, the real argument for a bar examination and the elimination of the diploma privilege must be a conviction that the bar examination would winnow some people at the bottom of the scholastic ladder who are potentially unqualified to practice. May we quote in this regard Dean Rundell's pertinent comments at the 1949 panel:

"Even if keeping numbers down were a legitimate objective of bar examinations, experience seems to indicate that they are not and cannot be effective to keep out of the bar the graduates of first-class law schools. This is not because all the graduates of such schools can always pass any bar examination. It is because they have so much at stake that they will not accept a single failure or even more than one but will continue to try so long as they are permitted to do so, and it hardly seems sporting to deny them repeated chances. It is very seldom, I think, that the graduate of a first-class law school fails ultimately to pass a bar examination if he must pass it in order to be admitted to the bar.

We reaffirm our contention that the bar examination is an unnecessary and undesirable process."

This strong report by the committee on Legal Education and Bar Admissions supporting retention of the diploma privilege was promptly approved by the House of Governors in February, 1955.

The matter would not die, and in late 1963 the Supreme Court decided to continue the diploma privilege for the two state law schools.

In September, 1971, the Court upped the standards for admission on diploma by setting forth prescribed credits, requiring satisfactory completion of 80 semester hours, 60 of which had to be from a specified list, including 30 from mandatory courses. The court issued the new rules to assure that the law students would get a broad and balanced education in areas of particular concern to the practice of law. For the time being, at least, the issue seems to be at rest.

The matter of "good moral character" of prospective admittees (which dated back to 1836) was of considerable concern in the 1960's and 1970's. The Court required that the deans of the two law schools certify that the applicants were of "good moral character", but provided no guidelines or procedures for determining it. In practice, the law schools were expected to check on students. When moving their admission, the dean would state that he believed the graduate to be of good moral character. This placed an impossible burden on the deans, especially as the classes got bigger. The deans agreed that this was something for the bar to investigate, and not for the schools. But the bar did not undertake this burden. "Good moral character" remains a subjective requirement, almost impos-

sible to pin down except for evidence of gross or felonious conduct.

Admission to the bar and control over the practice of law by the legislature received legislative attention in 1977. In March of that year Senate Bill 237 proposed to permit the admission of a person to the practice of law without attending a law school if such person had at least a bachelor's degree from an accredited college or university and had served an apprenticeship of not less than three years with a qualified attorney and had passed the bar examination.

Later in the same session joint resolutions were introduced in both houses to amend the constitution so as to place the regulation and licensing of lawyers under the legislature, instead of under the court.

The State Bar resisted these proposals with vigor, and both were defeated. However, the efforts and attitudes of the legislators towards the bar and the lawyers pointed clearly to the poor relations and understanding between the legislature and the legal profession. This brought about special efforts to communicate with and educate the senators and representatives as to the bar's position and willingness to resolve these differences.

On December 29, 1980, the Supreme Court significantly changed the rules governing admission to the practice of law in Wisconsin. Two of the most far reaching changes were (a) the elimination of the residency requirement for admission to practice in the state, and (b) the reduction in time of required active practice in a foreign jurisdiction to be admitted on proof of practice elsewhere from five of the last seven years to three in the last five years.

As a result, the number of non-resident attorneys admitted to practice on motion on the basis of foreign license rose dramatically. The increasing number of lawyers from border areas (i.e., Rockford, Chicago and Minneapolis-St. Paul) led to resentment among Wisconsin lawyers in the areas facing this "outside" competition. These changes were largely the result of United States Supreme Court decisions, and there is little that Wisconsin can do about it.

The ways, means and requirement for admission to the bar have changed mightily in the past century. Standards are high, and the profession numbers tenfold what it was when the bar was organized. Newly admitted lawyers are better prepared than ever before. Starting salaries are substantial. Few launch into solo practice. Probably the most significant change is the large proportion of admittees who are women. Fifteen percent of the bar is now female. The 1986 law school enrollment at Madison was 48% female. Little complaint is heard about the "overcrowding of the bar", and admission numbers are relatively stable. The admission figures for the past five years are interesting, and will be found in the table at the end of Chapter 12, Membership and Finances.

Chapter Fourteen

Integration of the Bar

In the 108 years since the first state bar association was formed in Wisconsin, clearly the most significant event in its history was the integration of the bar by order of the Supreme Court in 1956.

An integrated bar, or a unified or all-inclusive bar, is a bar association to which every lawyer must belong and pay dues as a condition of practicing law.

Wisconsin, which had been the eighth state to form a state bar association, was the first state to consider integrating its bar. On June 24, 1914, President Claire Bird (Wausau) proposed to the annual meeting a proposition that he termed "rather radical and fundamental." He proposed that "we undertake to secure proper legislation by which all who practice law will be united into a common organization under such regulation as the legislature may impose and the courts may exercise, and with adequate control over its own membership."

President Bird's recommendation was referred to the committee on Amendment of the Law for consideration at the 1915 meeting.

When the matter came before the meeting in 1915, Bird said that there were no constitutional bars to incorporating the bar. Nationwide, bar leaders had begun to take stock of the poor efficiency of their professional organizations and what could be done about it. In speaking on the matter, Bird said:

"There is one step which I deem worthy the serious consideration of this association. Should we not seek such legislative recognition of the bar as a whole as will make membership in the duly established (perhaps legally incorporated) Bar Association of Wisconsin and submission to its jurisdiction, discipline and control, a condition precedent to the license to practice law? If every person practicing law is required to contribute the annual dues of two dollars per year to this association a sufficient fund will be provided by which proper discipline can be meted out to some at least who are now lowering our standards. The license to practice law like every privilege is subject to reasonable regulation. If the right of a barber to shave a man for hire is made contingent upon his paying two dollars a year to be used for the good of the public in regulating the trade, I can see no reason why a similar contribution should not be made a continuing condition of the right to practice law. While a special act cannot be passed creating corporate privileges, yet a proper statute could be devised uniting the entire body of attorneys permitted to practice in one common body subject to such statutory and judicial control as may be imposed upon it and given the power and charged with the duty to control and discipline its members."

Despite his urging, the committee recommended against the idea, and no action was taken.

President Bird's novel proposal very likely grew out of discussions of the American Judicature Society, which became an ardent advocate of integration. The first word spoken on integration in this county was in an address to the Illinois State Bar Association in April, 1913, by Herbert Harley of the American Judicature Society. He advocated an all-inclusive, self-governing, responsible bar. Harley got the idea from Canada, where he observed their all-inclusive official bar association, the Law Society of Upper Canada. He began to write of it in the Society's Journal in 1914. In March of 1914 he published an article in the Annuals of the Academy of Political Science on the subject, very definitely laying the frame-work of what later became the integrated bar. In 1918 that society issued a model bill for consideration by the states.

Once Wisconsin broke the ice, other states quickly followed. Despite its initial rejection in Wisconsin, successive bar presidents continued to promote the idea. In 1917 President B. R. Goggins told the annual meeting:

"The Bar of Wisconsin should have in its membership every member of the Bar, including every judge in the State. Certificates of admission to practice ought to be conditioned on active membership in the Association."

In July 1919, C. B. Bird again pushed integration, saying that Nebraska and California had been considering the idea, and that the American Judicature Society has discussed it from time to time.

North Dakota became the first state to integrate its bar, which was incorporated by act of the legislature in 1921. The act was reprinted in Volume 14, page 23 of the Wisconsin Bar Association proceedings.

In 1921, the American Bar Association issued a "Uniform Act for Bar Incorporation." Wisconsin Bar President Thompson urged further consideration of the idea in this state in his President's address. Although his recommendation was referred to a committee which recommended to the 1922 meeting statutory adoption of the integrated bar based on the North Dakota pattern, the report was only "accepted", and the committee continued and no action taken.

In October, 1931, the committee on Coordination of the Bar started seeking information on those states which had integrated their bars. The matter was "simmering on the back of the stove," so to speak.

In January, 1932, Bar President Hartley told the committee on Local Bar Associations, "There probably never was a time when there was more need for a strong,

unified bar.”

Early in 1932 the appointment of Lloyd K. Garrison as Dean of the University of Wisconsin Law School breathed new life into the integration movement. Dean Garrison was an articulate, dynamic person. He was given a golden opportunity to outline his views at the 1933 annual bar meeting. The program committee had in February decided “that it would be proper to obtain a speaker to tell us something about the organization of an incorporated bar, so that the members of the association will have the benefit of his views and utilize whatever is practical in the formation of our own plans.”

The committee could only have had Dean Garrison in mind, for he was invited to address the convention on the subject, “Experience of Other States With Incorporated Bars.”

It is very likely that there was behind-the-scene collaboration, for the Milwaukee Bar Association had sponsored a resolution proposing that the Association appoint a special committee to submit a plan for a unified, self governing bar. This was probably engineered by Carl Rix.

Garrison suggested that the Supreme Court by rule could create an all-inclusive bar. He supported the appointment of a special committee to submit a plan for establishing an all-inclusive bar (the Milwaukee Bar resolution).

The special committee was created by vote of the convention in June. On August 23, 1933, President Carl Rix appointed a committee of prestigious membership, chaired by Claire B. Bird of Wausau, with 24 members. That committee was to “study the subject generally”. A second committee of nine, chaired by Dean Garrison, was appointed as a drafting committee, “to work out a complete legal bibliography of the subject, collect the laws of the various states that have this system, and gather copies of addresses, articles in magazines, etc., so that the general committee may be supplied with complete information on the subject.” This was clearly the more important committee.

At an early meeting committee member Francis J. Wilcox filed a written opinion and brief that integration was the constitutional authority of the court, not the legislature. However, the committee felt constrained by Garrison’s doubts and the doubts of the majority of the committee and the sentiment of the Milwaukee press which strongly influenced the membership of the full committee to not appoint the third committee to confer with the Supreme Court on this issue, but to recommend the development of an educational campaign among the bar and the public for legislative acts.

A third committee to “confer with the Supreme Court” was appointed, but apparently never acted.

It may be fairly said that impetus given by the address by Dean Garrison and the appointment of the two

committees was the starting point of the integration of the Wisconsin Bar.

On December 8, 1933, President Rix reported to the Board of Governors that:

“He had talked with Mr. Garrison about the Unified Bar program and they had in mind the presentation of the plan to every member of the Bar in every county and circuit; that members would definitely not be asked to commit themselves on the plan or on the question whether it will be better to secure it by legislative or court action; that there must be a thorough discussion on the matter, and each Governor was asked to take upon himself the obligation of speaking if called upon. He mentioned the good work done by Mr. Kletzien, chairman of the Legislative Committee, in preparation for an educational campaign upon the members of the legislature, both present and prospective.”

Rix also announced a surprising thing, that a layman (Michael Cudahy) living in Milwaukee, had voluntarily donated to the Association the sum of \$1,000 for carrying on a campaign for a unified bar, and that the amount had been paid to the treasurer. The gift came through the reading of an editorial in the Milwaukee Sentinel during the summer setting forth the plan for an organized bar, and the donor was so impressed with the desirability of the plan that he had offered to help with the campaign by contributing liberally to the expense of it.

The Committee on Integration recommended to the 1934 convention in June that integration should be by legislative act. The convention again approved of the principle of the integrated bar. The special committee was continued, with instructions to redraft the bill and present the revision to a special meeting of the bar in the fall of 1934.

At a board meeting on August 31, 1934, President Doyle stated that he had talked the matter over with some members of the Board and that it had been suggested that instead of having a meeting of the Association as a whole, at which few would attend, it would be preferable to hold a meeting composed of representatives from each district or circuit. The following resolution was then offered:

“WHEREAS, at the annual meeting of the State Bar Association of Wisconsin, held at Lawsonia Country Club at Green Lake, Wisconsin, in June, 1934, it was decided to submit to a later meeting the proposed bill for integration of the bar of Wisconsin and the amendments proposed thereto at that meeting,

BE IT RESOLVED, that said matter be submitted for determination to a meeting to be called at a time and place to be fixed by the President of this Association, and to be composed of the Board of Governors of this Association and delegates representing the several circuits, of whom there shall be two for each member of the Board of Governors from that circuit to be chosen by the members

of this Association in the several circuits.

BE IT FURTHER RESOLVED that the governor or governors in each circuit be and they hereby are directed to call and hold a meeting on or before November 26, 1934, of the members of the Association in their respective circuits, at which meeting there shall be submitted for discussion and consideration the bill proposed by the Drafting Committee and the amendments proposed thereto, and that following such discussions the delegates herein provided for be chosen, and such governor shall thereupon report the names of such delegates to the Secretary of this Association."

The resolution was adopted. It was agreed that non-member attorneys be invited to attend the circuit meetings, which presumably were held. On December 7, 1934, delegates from each bar circuit met in Milwaukee to consider and prepare a proposed bill to integrate the bar for the 1935 legislature. The meeting was well attended. The Milwaukee Lawyers Club pressed for a change to vest power to disbar with the Association, instead of in the Supreme Court. Most of the debate centered on this point. On a 35 to 31 vote, it was decided to keep the power to discipline in the Court. The drafting committee was then instructed to redraft the bill for approval of the Board of Governors. The bill was subsequently introduced in the 1935 legislature as Bill 119,S.

The bill was initially defeated in the Senate, but was then reconsidered and amended and passed. After bitter and protracted debate the Assembly passed the bill and sent it to the governor.

There then occurred a strange event that played an important part in the bar's history. Everyone expected Governor Philip F. LaFollette to sign the measure, since he was a member of the General Committee on integration and had assured friends of his support. At that point enormous pressure to veto the bill was brought on him by the Progressive Party leaders, egged on by the militant editor of the Capital Times, William T. Evjue. Evjue thrived on belaboring the lawyers and the bar association, and seized upon integration as an issue to be opposed with vigor and vehemence. A lawyer familiar with what happened related to me that LaFollette found himself caught in a crossfire between his friends in the bar and Evjue and his friends. In view of his commitment to integration, he would be accused of bad faith, or worse, if he vetoed the bill. He suddenly took a trip to Washington on State business. In his absence, Lt. Governor O'Malley, who was not a lawyer but a conductor on the Omaha Railway, quickly called for the bill and vetoed it, with a short message saying that integration would destroy the local bar associations. Since the bill had been enacted by close votes in both houses after bitter and often vituperative debate, it was impossible to pass it over the veto.

So ended the first real effort to integrate the bar by

the legislative route. Its supporters were left in shocked disarray.

Following the legislative defeat, the Board of Governors was in a quandary as to what course it should take. They met on September 13, 1935. Because their deliberations were so crucial as to what transpired, they are reprinted from the Board minutes, especially since they give such insight as to future events:

"The President made no recommendations as to the committees on Integrated Bar and asked what should be done about them in view of the failure of the bill to become a law.

There was considerable discussion of this subject. Mr. Rix advocated petitioning the Supreme Court for integration of the Bar. He said the legislature itself had placed the stamp of approval upon the Bar bill, it having passed both houses and in view of this, action by the court would not involve any discourtesy to the legislature; that the Supreme Court in the Cannon case had spoken unmistakably as to its power over attorneys who practice before the courts. He advised leaving the committees as they are for the present and that the Board act upon whether a petition should be presented to the court requesting integration by court order.

A general discussion of the power of the Supreme Court to integrate the Bar by court order followed.

Mr. Kenney raised the question whether the Board of Governors should act in view of the report of the committee, headed by Mr. Hardgrove, which held that the integration of the Bar should be obtained by legislative motion, and in view of the fact, as he supposed, that such report had been adopted by the Association.

Mr. Affeldt thought the question of public opinion is very important and questioned whether it would be good policy to abandon the efforts of getting an integrated bar through legislative action.

Mr. Rix said if the bill had been defeated by the legislature, he might not approve petitioning the court, but that now such a petition would go to the court practically with legislative approval.

Mr. Dougherty suggested many who opposed integration by legislative act might favor integration by the court.

Mr. Hoyt suggested appointment of a committee to lay out a plan for presentation to and consideration by the Bar of the state, pointing toward presentation of the matter to the Supreme Court.

Mr. Graves thought such a committee might devise a plan and report back to the Board of Governors at a subsequent meeting and the Board should then consider it and decide how and when it should be submitted to the Bar; that the bill itself would furnish a framework for the plan to be adopted; that we should have such a plan ready before petitioning the court.

Mr. Yates moved that a committee composed of the Board, or a committee to be appointed by the President, should take the matter of integration to the Supreme Court for determination as to whether or not the Bar should be integrated by court order.

Mr. Boesel moved an amendment to Mr. Yates' motion, that the sentiment of the Bar of the state should be ascertained through the local bar associations throughout the state before the matter is presented to the Supreme Court.

Motion seconded and carried.

Mr. Yates' motion, as amended, was then carried.

President Oestreich asked how the Board wished that committee appointed and who should be appointed. Ralph Hoyt moved that a small committee be appointed with Carl Rix as chairman and such other members as the President and Mr. Rix should name.

Motion carried."

The pot continued to boil. At a November 20, 1934 Board meeting, the following transpired:

President Oestreich recalled that at the last meeting of the Board, it was voted that the president should appoint a committee to move the supreme court for an integrated bar by order of the court. He reported that he had had conferences with a number of members of the bar in regard to this method of procedure, and there seemed to be a strong belief on the part of a good many that to proceed in that manner would not be best. He said he had not appointed the committee, and asked whether that program still met with the approval of the Board. The subject was discussed at length.

Mr. Kletzien moved that the Board go on record as favoring integration of the bar by court order.

His attention was called to the fact that this question was decided at the last meeting, and the Board authorized the appointment of a committee to present the matter to the supreme court; that he had brought this matter up for reconsideration in view of what seems to be a change of opinion on the subject.

Mr. Rix, being asked for a statement, said he discussed the matter with several members since the last meeting of the Board and the feeling seems to be that we should go slowly, and not "crowd the mourners" after the veto. He mentioned the editorials appearing in the Milwaukee Sentinel and said the question is not to give up the idea, but when to present it. He said there is doubt in the minds of some whether dues in an association, if required by rule of the supreme court, should be used for purposes not connected with admission and disbarment.

Mr. Graves asked whether the power of the supreme court is not one for the court to decide, and thought the Board need not attempt to decide it.

Mr. Hardgrove said that if a majority of the bar favor it, it would be entirely proper for them to ask the court to

integrate the bar by court order, but in view of his personal convictions as to the power of the court in this matter, he would personally oppose it.

Mr. Yates moved that the sentiment of the bar be obtained by sending every member of the bar a letter to ascertain whether the bar wants integration or not.

Mr. Graves suggested a mid-year meeting and that members be notified that this question will be considered.

Mr. Hardgrove moved to amend Mr. Yates' motion so as to provide that the letter go only to members of the Association. Mr. Boesel seconded the amendment.

After some discussion, Mr. Yates withdrew the motion with Mr. Wolter's consent. The motion to amend was also withdrawn.

Mr. Graves stated that the primary question was whether we should integrate the bar, and that was the question submitted to the local bar associations and approved by the Association at the annual meeting two years ago. He said the Hardgrove committee had recommended that procedure to obtain the integrated bar be by legislative action rather than court order, and that report was adopted and it was then voted to go ahead; that authority to secure integration by court order cannot be implied from that action; but that the organized bar of Wisconsin was overwhelmingly in favor of integration. He moved that a committee be appointed by the chair for the purpose of presenting to the supreme court the matter of integration of the bar by court order.

This motion was argued at length and upon being put to vote, was lost by a vote of 8 to 3.

President Oestreich ruled that the losing of that motion left standing the action of the Board at the previous meeting that a committee be appointed to present to the supreme court the matter of integration of the bar by court order.

Mr. Yates moved that the previous action of the Board relating to that matter be reconsidered and laid on the table.

Motion carried.

Thus the entire matter was in limbo, with no directions to the committee as how to proceed.

Meanwhile by 1936, 17 states had established an integrated bar.

A Change of Direction and a New Beginning

The idea for integration surfaced again at a meeting of the Board on September 26, 1936. The minutes disclose:

President Graves asked the members of the Board to give their views as to the character of the proposed bill for integration of the bar.

It was suggested that it might be easier to get through the legislature a bill empowering the Supreme Court to integrate the bar. In this connection, Graves read

the Michigan law which empowered the supreme court to integrate the bar.

The Board then recommended that the matter of an integrated bar bill be presented to the legislature in the form substantially like that in the Michigan statutes, with the officers and committee to have blanket authority to do what they think is best.

From this point, momentum picked up quickly. By February 3, 1937, a bill draft embodying the entirely new concept of integration by Court order was ready for introduction.

Despite the general consensus of the bar favoring integration, the fight to obtain it had only begun. Introduced as Bill 424,A in the 1937 legislature, the measure got nowhere. Again in 1939, Bill 462,A failed to pass the Senate.

Reminiscent of the early serial movie chiller, the Perils of Pauline, integration found a rocky road ahead. Speaking to the 1940 annual meeting of the Association, Milwaukee Attorney Edmund Shea told the lawyers that since 1934, the mode nationally is to obtain integration by a short legislative enabling act, with the Court to make the rules. By 1940, 23 states had integrated bars. Shea also broached the newest idea of directly petitioning the Court to integrate the bar under its inherent powers, saying it was a distinct possibility.

Shortly after the 1940 meeting, a new committee on Integration of ten members, chaired by Shea, was appointed and instructed to integrate the bar of Wisconsin. The committee prepared a two-sentence bill, as follows:

“There shall be an association known as the State Bar of Wisconsin, composed of persons licensed to practice law in this state, and membership in the association shall be a condition precedent to the right to practice law in Wisconsin. The supreme court, by appropriate orders, shall provide for the organization and government of the association, and shall define the rights, obligations and conditions of membership therein, to the end that such association shall promote the public interest by maintaining high standards of conduct in the legal profession, and by aiding in the efficient administration of justice.”

Bills incorporating this language were introduced in both houses in February, 1941.

At a joint hearing on the 20th of March before the judiciary committees of both houses there was the strongest and most formidable array of lawyers and judges that had ever appeared on any of the integration measures. An impressive figure at that hearing was George Brand of Detroit, an outstanding lawyer, who was the first president of the integrated bar in Michigan. He told the story of integration in Michigan so convincingly that it appeared that a majority of the joint committee members were won over by his arguments.

The Assembly then considered the bill, voted for

passage on the eighth of May, and sent the bill to the Senate. In the Senate there was at the beginning of the session a majority of senators against integration, but by careful and thorough and unremitting efforts in the way of argument and discussion, the minority for the bill was converted into a majority, so there were finally lined up 18 members who favored integration and only 10 against.

Then, after the revenue bills were passed, the Senate became restless and suddenly adjourned on the seventh of June, leaving a great welter of bills that had not been acted upon. It was the first time since 1903 that the legislature had adjourned in that way without disposing of pending matters. During the last few days of the session, there was a small minority which kept the measure from coming to a vote on the floor; and when the time for adjournment came, the integration bill had not been voted on.

Without doubt, the activity that year stimulated interest, discussion and the development of favorable sentiment towards integration. So, although the bill did not get through the legislature, a great deal of constructive work had been accomplished, which bore fruit in the future. There was little doubt, either, that a great majority of the lawyers wanted the bar integrated.

Where next? Chairman Shea put it thusly:

“What then shall we do next? The first question is whether the next attempt shall be by petition to the supreme court or shall await the next session of the legislature in 1943. That is a matter to be decided by the members of the bar and their elected representatives. To help crystallize and promote the development of opinion on this matter, there should be a special committee on integration in every local bar association in Wisconsin.

This committee as its final act has drawn up a form of statement, with a view of having members of the bar of the state who favor integration place their names and addresses at the foot of the statement, and send it in to Mr. Glasier. The statement simply says that the undersigned members of the bar endorse the plan of integration expressed in Bill 153, A., recently passed by the assembly of this state.

The only recommendation that the committee has is that the work which has been undertaken be continued.”

Meanwhile, the press of the state became very supportive. In a strongly worded editorial, the MILWAUKEE JOURNAL “hoped that the next legislature would pass the bill.” Pointing out that Wisconsin, usually prompt in the adoption of improved social legislation, had been singularly backward in refusing to adopt the integrated bar plan, as 23 states had done. The JOURNAL expressed its view that:

“The main reason for this -- failure may be found

in politics and in a lack of understanding of the integrated bar movement. Opponents, some of who had personal reasons for not wanting higher standards, were wily. They knew that if they could just get Wisconsin to believe that integrated bars were controlled by rich and powerful lawyers, mostly employed by corporations, the state would reject the idea.”

The Shea committee having been continued, it undertook its work seriously and with vigor, attempting to personally interview every lawyer in the state for the purpose of obtaining, if possible, a written endorsement of the principle of bar integration. The campaign was launched in September, 1941, but soon encountered a devastating loss of committee personnel to government service after declaration of WW II. However, even the partial canvas by June, 1942, showed a substantial majority of lawyers in favor of integration.

The 1942 convention continued the committee and instructed the Board of Governors to “work on the legislative enactment of a bill for integration.”

The committee continued to do its best to complete the canvas of every lawyer. Although the committee could not complete the canvas, the extent by which the bar favored integration was indicated in a general way. In ten counties of the state the lawyers were on record unanimously for integration. In twenty-seven additional counties, a majority of the lawyers expressed themselves in favor. In eleven additional counties partial returns indicated that less than fifty per cent of the bar had been canvassed, and no returns of the canvas were received from the remaining twenty-three counties. Out of more than twelve hundred lawyers who expressed themselves in response to the canvas, the number who opposed integration was less than ten per cent.

The Association secured introduction in the 1943 legislature of Bill 56, S., the same two-sentence bill that had failed in 1941. The bill was enacted by both houses as Chapter 315, Law of 1943, but Governor Walter Goodland promptly vetoed it, stating that to require lawyers to enroll in an organized state bar would encroach unduly on the freedom of action of the individual lawyer.

The legislature recognized that Bill 56, S. had the general support of the bar of the state and passed it over the governor's veto. Out of twenty-seven lawyers in the legislature, twenty-one voted to override the veto. The roll Call in the Assembly was 51 to 25, with 24 absent or paired. The Senate split 22 to 8, with three paired or absent. But the battle was far from over.

On May 12, 1943, Governor Goodland commenced a taxpayer's action in the Circuit Court of Dane County to restrain the Secretary of State from publishing the Integrated Bar Act as passed by the legislature. The complaint alleged that the executive veto was not overridden in the Assembly in the manner prescribed by the

constitution by a vote of two-thirds of the members present, in that 16 votes which were paired (8 for and 8 against the bill) were not counted, but should have been counted in determining the requisite majority. It was further alleged that the law was invalid on constitutional grounds that it would delegate legislative powers to the judiciary, and that its publication would cause irreparable damage to the plaintiff as a taxpayer, because of the publishing expense, and in requiring him to join the State Bar – injuries for which no adequate remedy at law was available.

Representing the defendant Secretary of State, the Attorney General applied for a summary judgment dismissing the complaint as devoid of merit. The Circuit Court denied the motion for summary judgment, whereupon the defendant appealed to the Supreme Court. On June 10, 1943 the Supreme Court heard the appeal and on June 16 rendered its decision. (*Goodland v. Zimmerman* (1943) 243 Wis. 459) In an eighteen-page opinion by Chief Justice Rosenberry, in which he issues raised by the appeal were thoroughly discussed, the Court held: (1) that the injunction issued pendente lite was improvidently issued; (2) that the court was without jurisdiction to entertain the action for the reason that it had no power in the premises; (3) that the court erred in denying the defendant's motion for a summary judgment and dismissing the action. The Court therefor ordered the injunction enjoining the Secretary of State from publishing the act to be vacated and set aside for want of jurisdiction. The order appealed from was reversed and the cause remanded to the trial court with directions to grant the defendant's motion for summary judgment and to dismiss the action.

The bar committee which was appointed in 1940 to promote integration of the bar then requested that it be discharged.

The matter rested there only one day. On June 17, the Supreme Court ordered an original action for the purpose of enabling the Court to determine the validity of Chapter 315. The Court specified five questions dealing with the enactment of Chapter 315, and the further important questions that, assuming the validity of enactment, was Chapter 315 an unconstitutional delegation of legislative power to the Supreme Court; did the act invalidly impose burdens upon the members of the bar; or was it invalid on other grounds?

Argument was set for September 18, 1943. All of the proponents and opponents of integration of the bar truly had their day in court by briefs and arguments. It seemed clear that the fate of integration rested on this case. On November 9, 1943 – Chief Justice Rosenberry handed down a decision, commencing with a masterful summary of the history of the integration movement. (*Integration of the Bar Case*, (1943) 244 Wis. 8) The Court held:

- (1) That the act was not an unconstitutional delegation of legislative power to the Court.

- (2) That Chapter 315, Laws of 1943 was validly enacted.
- (3) Integration of the Bar is a judicial and not a legislative function.
- (4) The Court will treat Chapter 315 as a legislative declaration that integration of the bar will promote the general welfare.
- (5) In view of the fact that so many of the members of the bar are in military service or otherwise engaged in promoting the war effort, the matter of integration of the bar will not be preceded with at the present time. (Italics added)

The bar had won the first battle, but clearly not the war.

On petition for rehearing, the Court denied the motion, emphasizing that the Court has large discretionary power both as to the time and form of integration, and that postponement of action until the return of the members in military service would not impair the rights of any citizen.

In his Secretary's report to the 1944 convention, Gilson Clasier said: "Although action -- was postponed, there can be no doubt that the decision marked an important turning point in the history of the Bar of Wisconsin". Time has borne this out.

Where did this leave the proponents of integration? More or less in limbo again, for the Court had said:

"Consideration of the scope of the order of integration and the activities of the bar pursuant thereto will be postponed to a time when a plan of integration is proposed. Whether the court should proceed by appointing a committee to propose a plan of integration and have that plan passed upon or whether a general question relating to the integration of the bar should be submitted, are matters that may properly await determination at a time when the conditions are such that the court may with propriety proceed in the matter. In due course the matter may be brought to the attention of the court or the court upon its own motion may proceed as it may then be advised."

Marking Time

With the Court having placed integration on "hold," the bar created a committee with Edmund Shea as chairman to collect information on bar integration programs, rules and regulations, and to report that information to the Board. The committee quietly pursued its task.

Immediately following the end of WW II in September, 1945, the duty of drafting a proposed set of rules for the organization and government of the association to be known as the "State Bar of Wisconsin" was delegated to a committee with Quincy Hale and Ronald Drechsler as co-chairmen. The committee was to report within two months.

Proposed rules were drafted and submitted to the Board of Governors, which revised them slightly at its November 24th meeting.

The proposed rules were published in full in November, 1945, Bulletin, which issue was mailed to all lawyers of and in this state, and in the armed forces. Approximately 70% of the lawyers registered in favor of the rules*. Objections and suggestions thereto were considered at the February meeting of the Board of Governors, at which meeting it was determined to submit to the court certain changes, which changes were published or described in the February, 1946, Bulletin.

On April 15, 1946, President Hale filed a petition, based upon the proposed rules and upon the returns from the lawyers thereon, with the Supreme court, requesting the court to proceed with the matter of integration of the Bar. The court ordered that a hearing be had on June 5th, relative to fixing a date for the hearing upon the merits. Such hearing was had, and a copy of the order entered thereon follows (omitting formal portions):

"It is Ordered, that the Court will, on the 9th day of September, 1946, at ten o'clock in the forenoon, hear oral arguments and receive briefs from all persons interested, upon the following subjects:

- "(1) Should the Bar of the State of Wisconsin be integrated?----- *Note:* Early in 1946 the State Bar Association polled the lawyers of the state by circulating petitions for signature favoring or opposing Integration of the Bar. The tabulation was made by Stephen E. Gavin and Willard S. Stafford on the 16th day of July, 1946, at the Wisconsin Supreme Court Attorneys' Room in the State Capitol. The number of lawyers in the various counties was taken from Schedule 3, Page 16, of the State Bar Association of Wisconsin Veterans' Bar Survey. The tabulations of attorneys voting for and against were compiled from petitions on file in the integrated bar matter in the Wisconsin Supreme Court. The petitions read substantially as follows: "The following attorneys petition the supreme court to integrate the Wisconsin Bar in accordance with the rules set forth in the November issue of the bulletin of the State Bar Association of Wisconsin."

The results were:

Number of lawyers in the State	2,746		
	<u>Voting for</u>	<u>Voting against</u>	
Outside			
Milwaukee	910	45	
Milwaukee	<u>508</u>	<u>98</u>	
Total	1,418	143	

- “(2) Is ch. 315 of the Laws of 1943 invalid by reason of the provisions contained therein that membership in the Association to be known as the “State Bar of Wisconsin”, should be a condition precedent to the right of one admitted to the Bar to practice law in the State of Wisconsin?
- “(3) May the Court by an order of integration validly impose the payment of a reasonable fee annually as a condition of membership in the association to be organized and known as the State Bar of Wisconsin?
- “(4) Is the admission of a lawyer to the practice of the law a final judgment which cannot be impaired or its benefits withdrawn except for loss of character or incompetency?
- “(5) Should a mentor or referee or a panel of lawyers or jurists be appointed to take testimony on the merits of the proposal to integrate the members of the Bar of the State of Wisconsin and to make findings based on the evidence received and submit the same to this Court with recommendations?
- “(6) Assuming solely for the purpose of consideration of the matter that an order of integration will be entered –
- (a) Are any of the provisions of the proposed order invalid?
 - (b) Do the provisions of the proposed order
 - 1) Present a workable plan?
 - 2) Promote the best interests of the profession and the public interest and aid in the efficient administration of justice?
- “(7) If any provision of the proposed order is considered objectionable, please state reasons and propose a substitute.”

President Hale appointed a committee to draft a brief in support of the position of the Association that the bar of the state should be integrated. Edmund Shea was chairman.

This time not only was the battle lost, but the war as well, or at least for a decade. On December 18, 1946, in a brief and devastating opinion, one which was completely unexpected by most observers, the Court declined to integrate the bar. (In re Integration of the Bar, 149 Wis. 523). The opinion echoed all of the opposition arguments: that the Court would be required to censor budgets and activities of the Bar; that control by the Court is a price greater than the Court or the lawyers ought to be willing to pay; that the integrated bar would be severely restricted in its activities; that a free and voluntary bar is to be preferred to one dominated by the Court; that no crisis exists; and that the Court advocates complete and wholehearted support of the voluntary association by the individual members of the bar.

Rumor had it that the Court was swayed by one adamant member whose wrath and vituperative opposition cowed several others. Unfortunately, Justice Rector could take no part because of his previous involvement on the bar's integration committee.

Faced with such a complete defeat, the Association undertook the revision of the Articles and By-Laws of the voluntary association and a revitalization of the organization. This is covered under the chapter on Bar Governance elsewhere in this history.

Meanwhile, the opponents of integration sought repeal of the integrated bar statute. Although the Court had said that this statute was merely advisory, and that only the Court had the power to integrate the bar, the Board of Governors resisted repeal on the theory that it would be a negative expression of public policy by the legislature. The law was not repealed.

Interregnum

Following the resounding set-back by the Court in 1946, integration of the bar was a dead issue, unless and until the membership of the Court changed. During the following nine years, little was said and nothing done to promote the idea. Instead, the bar turned with vigor and enthusiasm to restructuring and revitalizing the voluntary association. Restructuring was accomplished by adoption of new Articles and By-Laws in June, 1947, along with an increase in dues, the decision to hire a full-time executive secretary and to open an association office. This was accomplished by December 1, 1948. The activity in the following years is described extensively elsewhere.

Meanwhile, as the re-structured association went speedily about its business, a whole new generation of 2,740 post-war lawyers was admitted between 1946 and 1955, almost none of whom had ever heard of or knew

anything about integration or the long fight to bring it about in Wisconsin.

A few of the most respected and dedicated members had not forgotten the campaign for integration, even though no mention was made during this interval.

A New Beginning: Success!

The 1955 annual meeting of the Association at Green Bay was well attended. The banquet speaker was Erle Stanley Gardner, the famous author, and the room was packed. As was traditional, the last item on the program was the introduction of the incoming President, Alfred E. LaFrance, of Racine. LaFrance, a dynamic, forceful leader, announced in a brief acceptance speech that he intended to work for integration of the bar.

Clearly, the situation in 1955 was vastly changed from 1946. There were six new faces on the Court; the bar had doubled in size; and pressing needs for a better-supported organization were becoming evident.

One might surmise that LaFrance had received private word that this was a "new Court", and that a renewed effort to integrate the bar might receive a friendly reception.

LaFrance moved swiftly and with assurance. In his President's Page in the October 1955 BAR BULLETIN, he pushed integration, saying he was in the process of appointing a committee to "crystalize this integration problem in Wisconsin".

Two months later, on December 16, the Executive Committee empowered the President to initiate proceedings to integrate the bar. The fact that the attitude of the Court had changed was demonstrated when the Executive Committee held a conference with the court to discuss the procedural problems on integration. With these matters cleared up, on February 16, 1956, the House approved appointment of a special committee to petition the court for integration. This committee of 35 members was chaired by Edmund B. Shea.

The committee moved with exceptional speed and filed the petition on March 16. The same day the Court, which apparently had anticipated the petition, set the hearing for May 8. The committee also filed a brief prior to the hearing.

On June 22, the Court ordered that the State Bar of Wisconsin should be integrated when proper rules and procedures had been adopted; and directed the petitioners to submit to the Court by September 20 proposed rules for integration of the bar. The committee had earlier commenced work on draft Rules and By-Laws, and promptly submitted them to the Court, with a petition for adoption. The Court set the hearing for November 10, and further ordered that the proposal and notice be published in the October, 1956 BAR BULLETIN.

On December 7, the Court adopted the Rules of

Integration, to become effective January 1, 1957, to be effective for a period of two years. A few minor changes were made in the draft as submitted. Following the hearing on November 10, the court had designed Justice Wingert to prepare the final draft. He sought collaboration from the bar's executive secretary, who was to become the executive director of the new organization, and the final draft was made ready in a matter of days following two or three drafting sessions.

The court appointed the officers of the old Association as interim officers of the new association, and named 29 District governors to serve with full power in their respective positions until the annual meeting of the new State Bar in June, when officers elected under the new Rules would take office.

On the 5th of September, 1956, the court, acting in anticipation of the adoption of the Rules, had empowered the Association Council to take such interim actions and make such temporary appointments as were reasonable and necessary on behalf of the State Bar of Wisconsin during the transitional period and pending the selection of the regularly constituted officers of the State Bar. This was done in order to facilitate an orderly transfer of functions, responsibilities and activities from the Wisconsin Bar Association, to enable the planning of future programs and activities, and to make necessary advance plans and arrangements so as to accomplish integration with a minimum of administrative difficulty.

On September 20, 1956, the Council acted under this order by adopting a resolution providing that all activities and records of the Association be transferred to the State Bar on January 1; and that the State Bar would assume and carry on all activities and assume all obligations of the Association. The old Association would go dormant, but not out of existence. All Association funds were loaned to the new State Bar to retire the mortgage on the new Bar Center property, then under construction.

That the transition was smooth and effortless can be testified to by the writer, who was the executive officer before and after January 1. The bar marched smoothly ahead without losing a step.

The New State Bar

With six months lead time to anticipate the change-over to integrated status, the bar officers and staff moved ahead at a fast pace after January 1, 1957. The initial task was to notify all lawyers ever admitted in Wisconsin and still living that they must enroll in the new State Bar, and that membership was mandatory if they wished to keep their licenses alive. Every possible means was utilized to give notice; law school alumni lists, law directories, notices in bar publications in other states and long-dormant bar mailing addresses were all productive. The resulting enrollment of members was swift, gratifying and surprising

in size. The new State Bar soon had more than double the previous membership. Our out-of-state membership soared, largely because Wisconsin's diploma privilege resulted in almost every graduate of Wisconsin or Marquette law schools being admitted upon graduation, even though many soon left the state. Even in-state many more lawyers were turned up than had been anticipated, especially in Milwaukee where local bar leaders had estimated about 1,800, whereas nearly 2,400 turned up.

By July 1, 1957, total membership was 6,174 compared to 4,968 a year earlier. Nor only did this result in a substantial increase in dues income, but the added human resources for committee and section activities was most significant.

During the shake-down period of 1957-1958, the growing pains caused only minor problems. Several small changes in the By-Laws were made. The new Rules required all eligible lawyers to enroll within 60 days, but a number of extended grace periods were granted. "Lost" members turned up for years, and considerable leeway was allowed before the latecomers were required to petition the court for late enrollment.

The order for integration in 1956 called for the Board to report to the court on the functioning of the bar during September, 1958, with recommendations as to amendment of the Rules and By-Laws and continuation of the organization beyond December 30, 1958.

In August the Board reported to the court on the 21 month's experience under integration, and requested the court to order continuation of the State Bar on a permanent basis.

On December 22, 1958, the court ordered the State Bar "be and it hereby is continued". (In re Integration of the Bar, 5 Wis. 2d 618)

The opinion clearly demonstrated the changed views of the court from a decade earlier. The confidence of the court in the new association was forcefully stated in the opinion:

"In the opinion In re Integration of Bar (1946), 249 Wis. 523, 25 N.W. (2d) 500, the court assumed it would be required to censor the budget and activities of the Bar after integration. Certain activities were pointed out for which the integrated Bar could not use its dues. The two years' experience with the integrated Bar in this state has proven and we now believe that such detailed supervision is not desirable or essential to the existence of the integrated Bar. This court thought by the adoption of the present State Bar Rules and By-Laws many of the statements made in the decision of 1946 were implicitly rejected. To clarify the point, the language of our previous opinions contrary or inconsistent with the present State Bar Rules and By-Laws promulgated by this court and this opinion is overruled. The integrated State Bar of Wisconsin is independent and free to conduct its activities within the framework of such

Rules and By-Laws. Within their confines this court expects the Bar to act freely and independently on all matters which promote the purposes for which the Bar was integrated subject to the general supervisory power of the court. These Rules and By-Laws constitute a democratic process by members of the Bar can govern themselves and can act in unison and by which minorities are protected; and they provide appropriate procedures for invoking the supervisory power of this court."

This unequivocal language would seem to have settled the future of the State Bar for once and for all. Such was not to be the case.

A scant six months later the validity of integration was challenged – a challenge that would go all the way to the United States Supreme Court, and to a considerable degree force the State Bar to operate under the yellow "slow" light for two years.

The case, Lathrop v. Donohue, became a cause celebre, and remains the bellwether case on the integrated bar. Much has been written about the case, but for these purposes a brief chronology must suffice, as follows:

On June 8, 1959, Trayton Lathrop, a Madison attorney, having paid his 1959 bar dues under protest, sued the State Bar treasurer, Joseph Donohue of Fond du Lac, for refund of the \$15 dues, paid under an alleged unconstitutional compulsion.

On June 10, the action was referred to the Executive Committee, which consulted with Attorney General John Reynolds regarding the defense. The Attorney General agreed to defend the matter, the State Bar being considered a state agency.

The Attorney General promptly had the venue changed to Fond du Lac County, and entered a demurrer on three grounds:

- (1) The Circuit Court lacks jurisdiction, which is exclusively in the Supreme Court.
- (2) There is a defect in the parties; the State Bar is a necessary party.
- (3) The complaint does not state a cause of action.

On October 23, the Circuit Court held in favor of the bar and entered judgment dismissing the complaint on its merits. Lathrop appealed to the Wisconsin Supreme Court.

On March 11, 1960, the court upheld the circuit court, but in an unusual opinion went on to consider and uphold the constitutionality of the integration of the bar. The court supplemented its opinion with a lengthy Appendix detailing and even lauding many bar activities.

On April 13 the State Bar taxed costs against Lathrop, who then appealed to the United States Supreme Court. Donohue's attorneys moved to dismiss this appeal.

On October 10, that court took jurisdiction and entered an order stating that further consideration of the question of jurisdiction is postponed to the hearing of the case on the merits. The case was set for argument immediately following the case of International Association of Machinists, et al. v. Street, et al, No. 4, October Term, 1960, which the court referred to as a related case. That case presented the question of whether union shop agreements authorized by the Railway Labor Act violate the constitution because of the fact that union expenditures may be made for political, educational and ideological purposes.

The State Bar invited all other states with integrated bars to file briefs amicus curiae. About a dozen states did so, recognizing the crucial question at stake.

On January 8, 1961, the case was argued before the Supreme Court. Donohue and the State Bar were represented by John Reynolds, the Attorney General; Gordon Sinykin, who had prepared the brief; and Warren Resh.

On June 19, 1961, the United States Supreme Court upheld integration of the bar in multi-opinion decision.

Lathrop petitioned the court for a rehearing and the court, as a formality, issued the customary stay of mandate pending its decision on whether a rehearing should be ordered.

In June Mr. Sinykin indicated that it was his opinion that the State Bar was now on very safe ground, having won more than it had anticipated. He stated that the opinions appear to open the door wide to the State Bar to go father in legislative matters than had been the situation in the past, and that the bar should seek a clarification from the Wisconsin Supreme Court of its rights to be more active in the legislative field.

In due course the court rejected the petition for rehearing and Lathrop v. Donohue became final.

The matter nevertheless was not settled once and for all. Although the opponents were in temporary disarray, they bided their time. The State Bar continued to grow and prosper for the next 15 years without formal challenge. In this period the membership grew from 7,000 to 10,253.

In July, 1976, the State Bar having gotten into budgetary straits, requested the court for a 150% dues increase, from \$40 to \$100 a year. In November the court allowed an increase of dues to \$60. Disturbed by the original request, the court appointed a committee of 19 members under the chairmanship of Judge Andrew Parnell to study and make recommendations to the court on four questions:

- (1) The concept of the integrated bar and whether it should be continued in Wisconsin;
- (2) The type of activities in which the State Bar should engage;
- (3) The appropriate means of financing the activities of the State Bar, including the extent to which continuing legal education activities provide

funds for other bar activities; and

- (4) The management of State Bar funds, including budget development, accountability for expenditures, and development and use of surpluses.

The Parnell committee worked diligently, holding numerous public hearings. The committee filed its report with the court on August 1, 1977, making a total of 28 recommendations in the form of resolutions. The court set a hearing for October 24, 1977 on the report, the dues structure of the State Bar, and the financing of the new Boards of Attorneys Professional Responsibility and Professional Competence, which activities had been taken away from the State Bar. (See other treatment in this history)

Meanwhile, on October 18, the State Bar had filed a petition renewing its request for dues of \$100 a year, to cover the expenses not only of the State Bar but of the two boards.

The Parnell committee report can be summarized as follows:

I. The Unified Bar

- The unified bar should be retained in Wisconsin.
- There should be regular, informal dialogue on the bar between bar officers and the Chief Justice.
- The Court should provide for a biennial, independent committee review of State Bar programs.
- The Court should consider similar review committees for the Board of Professional Responsibility and Competence.
- The Court should consider a permanent committee to recruit and screen nonlawyers as candidates for service on its various bodies which include lay members.

II. Activities

A. Professional Competence and Education

- It is appropriate for the State Bar to be involved in post-admission legal education-
- to conduct its own C.L.E. program and to cooperate with other sponsors.
- The Board of Professional Competence should continue to be an independent agency under the Supreme Court. Funding by charging accreditation fees should be considered.
- Major Wisconsin C.L.E. program providers should cooperate in planning C.L.E. programs.
- It is appropriate for the State Bar to provide financial and other support for pre-admission legal education.

B. Delivery of Legal Services

- The State Bar should promote the innovation, development and improvement of ways to deliver legal services.
- A Legal Services Section should be established to coordinate all Bar activities concerning delivery of legal services.
- The State Bar should permit freer dissemination of information concerning availability, cost and type of legal services offered by lawyers.

C. Participation in Lawmaking Process

- The State Bar should be active in the lawmaking process on subjects which the professional expertise of lawyers has relevance. Funding and implementation is at the discretion of the Board of Governors. This does not include financial support to candidates for office.
- Greater emphasis should be placed on its technical and research capabilities.
- Sections should be able to express a position on a matter involving a substantial issue of public policy if the matter is particularly relevant to the section, is adopted in accordance with section by laws, is taken only on behalf of the section and if the section charges annual dues at least equal to the cost of its legislative program.

D. The State Bar should establish a long-range planning committee.

III. Funding Methods

A. Dues

- The Supreme Court should continue to approve dues increases.
- The State Bar's dues structure is satisfactory.
- Funding the Wisconsin Bar Foundation through a check-off on the State Bar dues statement is inappropriate.
- Charges for administration of the Boards on Professional Competence and Responsibility should be allocated among all members and itemized on the annual dues statement.

B. A.T.S. Funding

- A.T.S. should be self-supporting.
- A.T.S. funds should be used solely to support A.T.S. programs.

C. User Fees for Other Programs

- Except for some section activities and A.T.S. programs, the State Bar should fund its programs out of general revenues and not through user fees.
- Sections should be encouraged to charge dues.
- A basic fee for the non-C.L.E. component of the Bar's Annual and Midwinter Meeting should be charged. Registration fees should encourage widest attendance.

IV. Management of Funds

- The State Bar's budgeting methods meet professional accounting standards.
- The State Bar should move toward longer-range budget planning.
- The State Bar should publish and clearly explain its proposed annual budget sufficiently in advance of Board consideration to permit study and comment.

On November 18, 1977, the court issued its opinion on the matter, the highlights of which were: (81 Wis. 2d XXXV)

- 1) Continuation of the Integrated Bar was Approved. The Bar often plays a dual role in carrying out its purposes; one public and one as a professional organization. In both roles, however, the ultimate objective of the Bar must be the public good. The court agreed that the two bases for continuing the unified bar are: 1) mandatory membership and dues give the best assurance that the Bar will have the resources necessary to carry out its programs; and, 2) each attorney has an individual obligation to support the Bar in fulfilling its collective responsibilities to society, and the unified bar is the best means to accomplish this. The Court also noted that a large majority of Wisconsin lawyers support or at least do not oppose the unified bar.
- 2) Activities. Bar support for preadmission educational activities was expressly authorized. The purpose of the State Bar were also amended to add the delivery of legal services as a major function of the State Bar.
- 3) Legislative Activity. The State Bar's role in the law making process was supported. The Bar has a role involving subjects where the professional expertise of lawyers has special relevance. The Board of Governors and the

Assembly determine how this role should be implemented. In order to permit a greater diversity of viewpoints expressed by the Bar, sections will be permitted greater authority to take positions on matters of public policy if they charge dues.

- 4) Funding. Although the Parnell Committee and the Board of Governors recommended retention of the present system of the Court setting dues, the Court ordered the future changes must be approved by members at an assembly session or by referendum. Superintending responsibility will be continued through review on petition of twenty-five members.

The budgets of the Boards of Attorneys Professional Responsibility and Competence will continue to be approved by the Court annually and shown as separate items on the dues statement. The dues statement may contain a line for a voluntary contribution to the Bar Foundation, but no amount may be suggested on the statement itself.

After January, the Annual and Midwinter Meetings must have a separate charge for ATS-CLE programs. The purposes of the meetings should be expanded to provide a means for active participation by members in establishing general State Bar policies. Assembly actions have been changed from advisory to binding except as to the budget. After January, there will be an assembly session at both Annual and Midwinter Meetings

- 5) Management of Funds. The budgeting methods of the State Bar meet professional accounting standards. The Bar should plan and publicize longer range budgets and involve members through discussion at assembly sessions.

Three nonlawyers without voting privileges were added to the Board of Governors.

1978 DUES SET

Active	\$60.00
Reduced Dues for Members admitted less than 5 years	
Professional Responsibility	\$24.09
<u>Professional Competence</u>	<u>\$ 6.16</u>
TOTAL	\$90.15

The two new Boards of Professional Responsibility and Competence are to be administered as a part of the Supreme Court rather than as part of the State Bar. The employees will be state employees. Funds will be under the fiscal control of the Supreme Court. The employees will be housed outside the State Bar Headquarters.

Although the court made a number of very significant changes, as a whole the decision was clearly a victory for the State Bar and the supporters of integration. Of particular importance was the complete severance of the two boards from the State Bar.

The court further provided that in January, 1982, and every fourth year thereafter, it would appoint a committee to review the performance of the State Bar in carrying out its public functions. The expenses of such committees were to be born by the State Bar.

On July 7, 1978, 476 active members of the State Bar petitioned the Board of Governors for a referendum presenting three questions pertaining to compulsory membership and dues. The Board declined to honor this petition, and instead on November 3 resolved to present to the members of the State Bar, by an advisory poll or referendum, the question: "Do you favor continuation of the State Bar of Wisconsin as an integrated bar?"

The bar advised the court that it had resolved to conduct an advisory poll, using the question quoted above, and asked the court to allow the poll to proceed.

On January 9, 1979, the court allowed the advisory poll to proceed, but declined to order the referendum requested by the petitioners on July 7. In denying the mandamus relief requested, the court said that the ultimate decision on integration was for the court, not members of the bar, and the questions framed by the petitioners did not raise matters of association policy which must be put to a vote if requested by 300 members. A concurring opinion noted the recent review of the integration question by the Parnell committee and suggested that a vote would not be particularly helpful at that time.

Subsequently, on January 23, 1979, the Board of Governors reversed its action and decided not to poll the members.

The petitioners of July 7 then took their own poll, mailing the same question as the bar had proposed to 9,319 members. Over 51% of those polled responded, with over 60% of those responding voting against continuation of the State Bar as an integrated bar. The vote, tabulated by a CPA firm, was 2,820 against continuation and 1,892 in favor.

On May 8, 1979, the petitioners armed with the results of what they considered to be a favorable poll submitted the results to the court and asked it to forthwith discontinue the State Bar as an integrated bar. The petition was heard by the court on September 12.

Both Dean Robert Boden and Glenn R. Coates filed briefs and argued on behalf of the State Bar.

The matter was again decided in favor of the State Bar on January 8, 1980.

In the decision, in which two justices dissented, the court denied the petition to discontinue the State Bar as an integrated bar, saying that although the court was concerned that the State Bar might be engaged in activities which were proscribed by the court (LAWPAC, for example), the court did not find any or all arguments or allegations of the petitioners and others sufficient to warrant changing the status of the State Bar to a voluntary bar.

The court also announced that pursuant to Rule 10, which it had adopted November 28, 1977, the court would appoint in January, 1982, a committee to review the performance of the State Bar in carrying out its public functions; and that it would direct that committee to review, evaluate and report on the bar's activities, especially its legislative activities, and report by June 1, 1982. This committee was appointed on December 28, 1981, consisting of 16 persons, including lay persons, with John Kelly, a prominent industrialist, as chairman. This committee became known as the "Kelly Committee."

The State Bar had anticipated the appointment of the Kelly committee to review its activities, and in July of 1980 created the Bar Status and Structure Committee of 13 members under the chairmanship of Dean Robert F. Boden, of the Marquette University School of Law. This committee included three lay members. The committee was to:

- 1) Study and define more precisely the nature of the State Bar as an integrated bar and to develop and articulate the legal basis for the classification of the State Bar either as a state agency or as a private organization or as a professional organization affected with a public interest.
- 2) To make a report of its conclusions concerning the nature of the integrated bar and, if appropriate, justification for its continuance.
- 3) To make other recommendations for amendment of the rules, including structural changes, to more accurately reflect the purpose and status of the State Bar.

Following eight meetings, including a public hearing, the Boden committee completed its report in October, 1981, and submitted it to the Board of Governors. In turn, on November 6 the Board directed the President to present the report to the Supreme Court and to the Review Committee (Kelly Committee).

The report was cogently stated and strongly supported continuation of the integrated status of the State Bar, stating:

"It would be a regression to standards of more than one hundred years ago to abandon the concept of integration and the consequent increase in the professional responsibility of lawyers which now requires more than honest and competent practice for financial reward. Removal from the jurisdiction of the State Bar of certain duties of enforcement of minimum standards of attorney conduct do not justify disintegration because a vast area of work remains to be done in improvements to the legal system, many of which are recognized in the Ethical Considerations of the Code of Professional Responsibility, areas of endeavor entirely consistent with the stated purposes of the State Bar. In this effort, no licensed lawyer should be excused from the minimal contribution now mandated as bar dues.

The record of the State Bar shows continuing efforts in these areas which are worthy of continued support. Troublesome questions concerning involvement by the State Bar in legislative process and lobbying are not reasons to abandon integration because these problems can be addressed prudentially by the Board of Governors. Current proposals relative to classifications of membership and remission of dues should be approached cautiously to avoid compromising the principles of professional responsibility upon which integration rests."

Undoubtedly the reasoning and pertinency of the Boden report were highly persuasive to both the court and to the Kelly committee.

Meanwhile, the Kelly committee was hard at work. Chairman Kelly reported to the Board of Governors in February that the committee did not plan to devote considerable effort to rehash all of the well-rehearsed arguments for and against bar integration. Instead the committee planned to devote its attention to the purposes of an integrated bar association and the appropriate range of activities for such an organization and measure the bar's work against these standards. Although the committee would probably make a recommendation with respect to continued bar integration, most of the detailed comments and observations would be within the assumed context of an integrated bar.

The Kelly committee submitted its report to the court on October 1, 1982. It was lengthy and made many

specific recommendations, most significant of which was, "The State Bar should continue as an integrated bar, subject to some modifications in the manner in which legislative action is approved...".

The committee vote on this was YES 12, No 5.

Also significant were other recommendations, namely:

That the court mandate additional funding for implementing more effective delivery of legal services and public education.

That no State Bar personnel or facilities be used in connection with LAWPAC (a political action committee)

Adoption of a House of Delegates system to replace the Board of Governors

That the court consider a less frequent plenary review of State Bar operations

The Board of Governors voted on November 12, 1982, to:

- a) Support the Kelly committee recommendations that the bar continue to be integrated;
- b) Oppose overall committee recommendations on legislative activity, but supported separation of LAWPAC from the State Bar and the 60% majority vote requirement for endorsement of legislative proposals;
- c) Oppose the House of Delegates idea; and
- d) Support the concept of less frequent review of the State Bar, suggesting a 10 year periodic review.

The court heard arguments on the recommendations on February 15, 1983. The bar's positions on the proposals were presented in a brief and oral presentation by Dean Robert Boden.

The court handed down its decision on the Kelly Committee recommendations on June 1, 1983. (112 Wis. 2d XIX) In brief, the court ordered:

- 1) That future reviews of the State Bar's performance be held at such times as the court deems advisable, instead of on a periodic schedule.
- 2) Directed the State Bar to poll its members before January 1, 1984, to determine whether the members wanted the proposed House of Delegates and Board of Directors, or to retain the present Assembly and Board of Governors

system;

- 3) Retention of the Unified Bar;
- 4) The State Bar may not participate to any extent in LAWPAC;
- 5) Declined to mandate additional funding for the delivery of legal services, saying the establishment of membership dues is to be handled by the bar Assembly of Members;
- 6) Said that the court would propose a dues rebate procedure with respect to the portion of dues allocated to specific legislation which the member opposed;
- 7) Left to the Board of Governors the question of what constitutes "the composite judgment of the members of the bar" or "substantial unanimity among the membership." In order to represent to the legislature that a position on specific legislation is that of the State Bar.

Clearly the decision was a vote of confidence in the State Bar, and perhaps one which laid most questions to rest. A reading of the Boden and Kelly committee reports, together with the court's opinion, went far to end the disunity of a minority of the membership over the question of integration. Hopefully, after 29 years of the same arguments and rhetoric, tired and filled by repetition, the court had brought the issue to a close.

The history of the integration of the bar in Wisconsin spans seven decades, from the first mention in 1914 to the court's order on the Kelly committee report in 1983. In no other state was the matter so well debated, so hotly contested, or so long in coming into being. Space does not permit the listing of all of the officers and committee members who worked tirelessly on the cause. Neither can we list all of those who submitted briefs or arguments before the court or the Parnell, Boden and Kelly committees, both pro and con. At the risk of slighting many who did yeoman service, there are nevertheless several names which stand out: Claire B. Bird, who first broached the idea; Carl Rix, who resurrected the idea in the early 1930's; Dean Lloyd K. Garrison, who crystallized the bar's position and chaired the initial drafting committee; Francis J. Wilcox, who worked tirelessly on both the original drafting committee in 1934 and on the committee of 31 which succeeded in 1955; Edmund Shea, who chaired numerous committees; Alfred E. LaFrance, who initiated the successful effort in 1955; Gordon Sinykin, who represented the bar in briefing and arguing Lathrop v. Donohue; and Dean Robert Boden, who briefed and argued the Parnell and Kelly committee cases.

Chapter Fifteen

Wisconsin's Alliance with the Local Bar Associations

Over the years Wisconsin has enjoyed a closer and more effective relationship between the state association and the local bar associations than most, if not any other state. The history of why this is so goes back to the origin of the Association and to a long list of officers who worked persistently to bring about an effective liaison with the local associations.

In 1878 there were local bar associations only in Madison, Milwaukee and a few other counties. The initial constitution of the association called for representation on its governing body by a vice-president from each judicial circuit. This remained the pattern for many years, even after the organization of numerous local associations.

The natural inclination of the lawyers in an area was to organize a local bar association. Where there were sufficient members, the county was the logical unit, and generally that pattern prevailed. Often the local associations met only annually, unless some crisis demanded attention. Because many county associations had so few lawyers, in a number of areas they banded into multi-county or circuit bar associations.

By 1906, there were 25 local bar associations listed in the Association's annual report.

In April, 1911, the president suggested that the Association take steps to have county bar associations in each county, and have each county send notice of their organization to the state association, with names and addresses of officers; and to ask each county bar to meet prior to the State Bar Association meeting and elect delegates to attend the annual meeting.

Hidden in the above suggestion is the nucleus of the idea that enabled Wisconsin to develop and maintain such effective working relationships with the local associations, namely, to gather and maintain a correct list of the local officers. This is the basis of essential communication with the local associations - having an up-to-date list of current officers with whom to communicate. This does not come about without diligent follow through. Officers and lists change almost weekly, and require persistent attention. But in this state, more than in almost any other, the state bar headquarters has long maintained such lists and has been able to communicate effectively with the grass roots officials.

In July, 1919, a Model Constitution and By Laws for local bar associations was issued. This was re-issued in June, 1923, after acceptance by the annual meeting, which presumably put on pressure for adoption statewide.

In June, 1924, an effective innovation was adopted, under which the local bar associations could "affiliate" with the state association and pay the state bar \$2.00 per

member. The local associations would collect a lump sum for dues covering both associations. The secretary notified the local bars of this scheme. Eight responded promptly, and affiliation was quite rapid during the next five years. In 1925 the idea was clarified to provide that if a lawyer lived in an affiliated area, he must belong to the local association in order to be a member of the state bar.

In 1926, the secretary reported that the plan was a great success. There was a total of 1,268 members in the state bar association, mostly through affiliated counties, with an accompanying influx of dues money.

By 1929, the value of close cooperation with the local associations was apparent. A resolution was adopted at the annual meeting requesting the officers and committees of the state association to develop on the part of local bar associations a more definite feeling that each local association was in fact a part of the state association, to the end that bar association projects might have a more unanimous support of the bar; and that the officers of the state association, so far as conveniently could be done, should arrange to visit local bar associations in the course of each year, in order to carry out the spirit and letter of the resolution. Local associations were so advised by appropriate notice in the BAR BULLETIN.

It was deemed desirable for the president to visit as many local associations as possible during the year, and that he might arrange for other officers or members of the State association to address local associations in his stead, where he was unable to do so. Sound familiar? This same idea, under various guises, has continued on a stepped-up basis from 1948 to date. It is another key element in the overall scheme of liaison and communication that has made the Wisconsin bar so cohesive and effective.

The county affiliation plan continued to prosper. By June, 1932, all but 12 counties were affiliated and collecting and forwarding the \$3 dues. There were then 1,584 members.

The uncertainties over whether the bar would be integrated, and then the disruption of normal activities caused by WW II meant that from 1932 to 1945 little changed in state-local bar relations. But the ground work had been laid, and immediately post-WW II, local bar activities stepped up markedly, spurred by the state association, which held an increasing number of regional meetings throughout the state in cooperation with the local associations.

As is related elsewhere, the association opened its first staffed office on December 1, 1948. The tempo picked up quickly. By June, 1949, there were 47 component bar associations, some of them multi-county. Only five coun-

ties had no local association, and by courtesy their lawyers were often invited to meet with their fellow lawyers in the adjoining counties. State membership in June was approximately 2,750.

In May, 1949, President McGalloway recognized the importance of the local bar associations, saying:

"These local associations are thriving. They are fully conscious of the reciprocal importance of the local and state organization. There is nothing inconsistent between a strong local and a strong state bar association. The local and the state associations are truly complements of each other. They both derive their strength and best efficiency from mutual reliance and cooperation. The federal idea is an old story in America; and, the American spirit is peculiarly adapted to such a setup—reasonably local autonomy with all local problems and services under its care, and the common problems and policies of all of the lawyers—rural and urban, young and old, being the care and solicitude of the state bar association. The stronger the local units, the stronger the state association."

In the same issue of the BULLETIN, the new executive secretary stated his position:

"In the coming months, your executive secretary expects to spend considerable time visiting local bar associations throughout the state to extend an offer of assistance and cooperation by the Association. It seems apparent that no state-wide organization can be any stronger than its component units, and likewise, the component units gain in strength and activity as their state organization becomes stronger and can consolidate the efforts of local bar groups. It is my hope to develop the services available through the Association so that local associations and lawyers throughout the state will be able to secure immediate and useful assistance on their problems.

"I cannot say enough about the wonderful cooperation and the spontaneous support from local bar associations and lawyers evident during the last months. The enthusiastic response to requests for assistance and information has been most gratifying, and I am confident that if this attitude continues, we shall have a stronger and more effective bar."

So intensely did the executive secretary feel about the worth of cultivating local bar cooperation that he, more than any of his counterparts throughout the country, "rode the circuit", attending local bar meetings in every corner of the state until his retirement in 1974. This paid substantial dividends in response and cooperation, as well as enabling him to spot potential problems and to "bird dog" likely candidates for committee appointment.

A special Conference of Local Bar Officials, with the House of Governors and Council of the state association was held in Madison on November 9-10, 1951. There were over 100 representatives of local bar associations present, and a warm and effective rapport was developed between

them and the state bar officers.

Again in 1954 the state bar submitted a Model Uniform Constitution and By Laws for Local Associations, coupled with an informative handbook developed for local bar officers. Thenceforth, each newly elected local bar president and secretary was mailed a "welcome" letter, including copies of the above materials. Gradually, most local associations adopted part or all of the suggested model.

In September, 1958, the first annual conference of local bar presidents met at the new Bar Center in Madison. This was intended to be held each September, but in fact was held only periodically, usually at the call of the then state bar president. On occasion, the meetings were held in conjunction with a state bar annual or midwinter meeting.

In 1976 an interesting but unsuccessful experiment was commenced, under which the Dane County Bar Association, which had grown quite large but had no office or staff, would contribute \$6,800 and a half-time person would be employed at the State Bar headquarters to handle lawyer referral and other services for Dane County on a trial basis. The arrangement did not work satisfactorily for a number of reasons, and the agreement was terminated at the end of 1979, but not without some acrimony. Since then the Dane County Bar has maintained a part-time staff, which serves its Lawyer Referral Service, and publishes a regular newsletter.

Since the early 1960's the State Bar had provided a modest subsidy to the Milwaukee Bar Association through contributing to the rental costs of their office in return for space for the State Bar grievance investigator.

From the early 1960's periodic bar caravans or tours were conducted. These were a series of local bar or area visits by the bar officers and staff, usually about four or five in number, traveling in one or two cars, as a caravan, visiting the local bar officers and members. A typical year might see six to eight such meetings scheduled over a two or three week period. The informal sessions provided an opportunity for some down-to-earth dialogue with the local lawyers, and especially during the 1981-82-83 period produced effective soundings of the grass-roots views of the members. This was another forward step in state-local bar liaison and communications.

An innovation in 1984 was the availability from the State Bar of local bar grants to aid in special projects of unusual merit. The plan was well utilized, and could have profited from additional funds.

Wisconsin continues to be a leader in state-local bar cooperation. It is in the localities where law is practiced and where the problems arise. Efforts at law reform, legislation and public relations can only succeed if the local associations are fully aware and involved. So too, the state office must be alerted to problems early in the game so as to offer effective assistance. It seems abundantly clear that only in those states where the local associations are well organized

and active can the statewide associations operate with full effectiveness.

Special mention must be made of the Milwaukee Bar Association, which from early days was the largest local bar association. That association was organized in 1858, prior to the forming of the state association. It continued as an unincorporated association until 1978, when the new MBA corporation was formed.

From early days, the concentration of lawyers in Milwaukee was over 40% of the total number in the state, and today represents about 44%. Geographically, Milwaukee was an attractive site for many of the pre-1930 bar meetings because of the confluence of rail transportation and its excellent hotels. Moreover, many of the leading attorneys of the day practiced there and were available for programs.

The MBA has had a succession of paid executives since the post WW II period, including L.G. Barnes, Francis J. Hart, John Koehler, Georganne Rudd and currently Thomas W. Nedwick. The MBA has become increasingly active, with the usual array of CLE efforts, committee and section activity, insurance plans, group and community service. Its current membership is about 2,000 and the budget about \$293,000.

The MBA has published a series of magazines, including the BRIEFS, the GAVEL and the MILWAUKEE LAWYER.

Liaison and cooperation with the State Bar has been generally effective, with little overlapping of programs, as the MBA has a full program of particular interest and import to its own members.

The MBA created its own Milwaukee Bar Foundation in 1946, and has attracted modest funds for local bar and pro-bono programs.

Until recent years the MBA was the only local association with a paid staff and offices, and today remains the only one with a full-time director.

Chapter Sixteen

The Growth of Continuing Legal Education

The story of how Wisconsin developed the paramount program of continuing legal education (henceforth CLE) in the country is long and interesting. We know it as ATS-CLE. Its programs are attractive and practical; its brochures outstanding; the materials are complete and easy to use; the lecturers skilled; and the attendance at seminars high. That the members like what they get is attested to by the poll taken in 1983 in which 80 percent said that the Bar's CLE program was the most useful part of the wide array of bar services. Bar members should look back with interest to see how this happy situation came about.

When the Association was formed on January 9, 1878, the first constitution called for only four committees. One was the committee on Legal Education, which was to examine the system of legal education and admission to the bar. While this did not contemplate CLE, as such, it demonstrated the concern of the lawyers of the time to the practical problems of lawyer competency. This was heeded by successive convention committees for the next 40 years by including an increasing amount of practical or "bread and butter" presentations to the annual meetings. Need for this was pinpointed by President Rosenberry in 1926, when he said, "It is thought that we have been having on our programs too much general inspirational material and not enough discussion of detailed subjects, and it is suggested that it might be advisable to have a number of round table discussions on definite topics."

This feeling was widespread and gave birth to the early legal clinics or regional bar meetings. We can mark this as the first turning point to better CLE. The Milwaukee Bar Association adopted the "legal clinic" idea in February 1928, sending out notices for a series of legal clinics to be held in the Moot Court Room at the Marquette University Law School. The meetings were to present purely legal questions or problems, and the members were admonished that "the program at each meeting will be exclusively educational and professional. There will be neither music or banqueting."

The announcement further warned that "Any innovation must necessarily be experimental and in presenting this program of Legal Clinics we realize that the experience gained from each successive meeting may offer new ideas for betterment and greater efficiency."

The State Bar Association picked up on this idea immediately, and during the next 50 years the above quoted statement on experimentation and betterment has been the constant objective and clearly the major factor on our successful CLE story.

Without staff or funds and beset by the Great Depres-

sion, the bar did its best to promote continuing legal education statewide. The most feasible means was through local legal clinics or regional meetings. By 1933 the association was offering a panel of talented lawyers as speakers at such meetings, which were locally organized. The first of this new series was held in Racine, with a nearly full attendance of the local bar. In thanking the State Bar Association for its program, the Racine bar president said that ". . .the splendid program put on by your Association. . .is still the talk of the association."

By 1936, the regional clinic idea was so successful that the president reported to the annual meeting that, "We abandoned the customary state bar midwinter meeting, with its usual slim attendance, and substituted sectional meetings (regional) at Eau Claire, Madison, Appleton and Racine. The meetings were successful." A speaker at the meeting urged more regional meetings as highly valuable.

The program continued for the next decade. In 1936-37, five regionals were held. The typical pattern was an afternoon program from 1:30 p.m. to 5:00 p.m., followed by an hour of relaxation and a dinner at 6:00 p.m.

In 1938, the bar president advised that while the programs for the regional meetings would fall largely on the committee on this subject, "probabilities are that because of the success of previous group meetings, there will be greater demand for them this year than ever." The 1939-40 series of meetings were reported as "very successful."

In 1939 a step-up in programing to an all-day seminar was added. At this time the mid-winter meetings in Milwaukee, were resumed. The February, 1940 midwinter program included a one-day seminar.

The regional meetings also continued. In 1942, six were held, and in addition there was a Fall institute at which the American Law Institute's proposed Code of Evidence was the topic, plus the institute at the midwinter meeting. The 13 program topics offered at the 1942 regionals were highly practical and attractive, and demonstrated the avid demand for practical up-dating on matters of law and practice. War-time problems forced a reduction in regional meets in 1943 to only three.

The end of WW II late in 1945 saw the second upward turning point in Wisconsin CLE. The returning veterans were sorely in need of immediate review courses as they resumed their practices. Both the University of Wisconsin Law School and the Milwaukee Bar offered "refresher courses" for veterans. This helped, but was only a step in the right direction. Much, much more was needed.

This need peaked at the Green Bay Convention in 1947, when the new constitution was being debated and a new future for the association was charted. One of the

greater needs of the bar was stated to be "to develop a program of post-graduate education of the bar which will go out each year to every section of the state, so as to keep the membership at large sensitized to significant legal trends and changes which will have direct impact."

When the new executive secretary took office in 1948, high on his list of stated priorities was, "We shall be active on a comprehensive training program consisting of local bar meetings, regional institutes, state conventions, and cooperative training with the law schools, the American Law Institute and through correspondence courses." The last mentioned was never heard of again!

The new association had a Post Graduate Education Committee, which soon became active and effective. It set its goal for 1949-50 at ten regional meetings, and a two-day seminar on legal-medical problems to be held in Milwaukee in April 1950. These programs were well received.

On December 7-8, 1950, the Association held its first annual Tax School. This event prospered from the outset, and continues to date as one of the most effective and well attended CLE programs. It is interesting to note that this first tax school was held without a registration fee.

The regional meet program continued for the following few years without significant change in format. There were seven scheduled for 1952, six in 1953 and nine in 1955. For 1956-57 as an innovation all nine meetings had identical programs consisting of a panel of doctors and lawyers discussing current medical-legal matters. The Wisconsin Medical Association cooperated in presenting this series. The State Bar had purchased a film, The Medical Witness, on medical evidence technology, which was the basis for the discussions.

Others began to notice the attractiveness of CLE programming. Nationally, the Practising Law Institute commenced widespread seminars. Several state bar associations, notably California, became active in CLE, with that state producing extensive law practice texts. Here in Wisconsin, competition in the field commenced when the university of Wisconsin Extension Services in Law was created on July 1, 1954, to provide adult education in the field of law.

Necessary changes were soon evident. The burgeoning post-war growth of the bar, integration, and the explosion of law problems of the mid-50's demanded more and better CLE than the regional meetings and state conventions could supply. Alfred LaFrance pointed out in August of 1956 that there was some question as to whether the interest in the regional meetings was sufficient to justify continuing them. He felt that the format used did not have the endorsement and approval of the majority of the lawyers in the state. He urged that the state bar prepare and present the programs at scheduled sessions other than at regional meetings. Clearly more and better CLE was needed. Moreover, the Supreme Court in integrating the bar had imposed the responsibility for an educational

program for the bar.

A significant step-up in the quality of presentations was added in 1956 whereby each participating lecturer agreed to prepare written materials on his subject for duplication and distribution in the form of a handbook. From this modest start came the magnificent materials accompanying today's ATS-CLE programs.

In 1957, the University of Wisconsin Law School entered the scene. Under arrangements by the Post Graduate Education Committee of the Bar, a series of five one-day (six hour) seminars were presented at the law school, in cooperation with the law school and the Extension Division in law.

The up-graded regional format continued in 1959, with nine sessions scheduled. But pressures for improvement and change were mounting.

It was evident that there might soon be "too many cooks in the kitchen," which would surely spoil the broth. The committee on Post Graduate Legal Education expressed its intent to call a meeting during March between members of the committee, representatives of the Milwaukee Bar Association and the Milwaukee Junior Bar Association, NACCA (now ATLA), and the law schools at Marquette and Wisconsin in an effort to promote greater coordination and cooperation between the several groups and agencies engaged in post-graduate training of lawyers to avoid duplication of effort. In retrospect, it was as fruitless as trying to bail out Lake Michigan with a bucket.

The situation continued in ferment. In July of 1961, there was consideration by the University as to whether the extension services in law should be continued. In the event the University should decide to abandon or diminish their program, it was deemed essential that the State Bar assume a position of leadership in the field. The Bar then held a conference between the deans of the two law schools and its officers relative to the entire post-graduate education problem. Apparently nothing was solved, for again in November of 1962, the Bar's Executive Committee discussed the current status of the post-graduate education activities of the State Bar and their relationship to the similar activities of Marquette University Law School, the University of Wisconsin Law School, and other organizations active in the field. It was agreed that a higher level of post-graduate education was necessary, and that it could be reasonably said that the up-grading and improvement of post-graduate education opportunities for lawyers was one of the most important challenges facing the State Bar.

In order to expedite coordination and planning of future post-graduate education programs, a meeting was called on Dec. 6, 1962 at Madison, of Dean Seitz, Dean Young, and the Bar officers to discuss the future developments and coordination of post-graduate legal education. This meeting gave impetus to the eventual formation of CLEW.

At this point we must look back to December 1958.

The pressures and problems of providing acceptable CLE to lawyers were being felt throughout the country. This triggered a giant stride forward toward an expanded and improved program of continuing legal education for the lawyers in the United States through the holding of a highly successful National Conference on Continuing Education of the Bar.

The blueprint and the impetus for the program were developed by leaders of the profession from every state in a three-day meeting December 16-19 at Arden House, a facility of Columbia University near New York City. The 110 conferees, including state bar presidents or designated representatives, and nationally prominent lawyers, legal educators and judges, were brought together by the American Bar Association and the American Law Institute.

Broad outlines for the future of continuing legal education were suggested by the conference in a consensus report adopted on its closing day.

The final report was an admirable statement of the status of CLE and agreed clearly that the organized bar had the primary obligation to make continuing legal education available to the members of the profession. In two of the most specific and important findings, the consensus report proclaimed:

- (a) "in the last analysis, the responsibility for this program in each state rests with the organized bar of the state."
- (b) "Law schools have an important contribution to make to the continuing education of the Bar. This contribution should be made with out either impairing the independence of the schools or diverting them from their primary responsibility for the education of law students."

Although this report clearly stated an agreed view that CLE was the job of the Bar Associations, and that the law schools should stick to educating law students, the pledge of the conferees to this effect was immediately ignored by numerous law schools seeking to capitalize on the dollar potential of CLE.

An adjunct tool in the mounting CLE effort in Wisconsin made its advent in 1960 through the Check List series and the Desk Book binder to contain them. Successive issues of the Bar Bulletin contained tear-out pages of checklists and outlines on common legal procedures, such as for termination of a tenancy, handling a divorce or forming a corporation. The lists were concise and followed a step-by-step listing of the steps, forms and procedures to be used, with adequate references to applicable statutes.

In January 1960, the purchase of 500 desk book binders, a seven by nine inch ring binder, was approved, to be sold at cost to the members. The checklist series

proved to be very popular, and by 1961 almost 1,000 of the binders had been sold. In subsequent years, existing lists were revised and reprinted for free distribution in complete sets to all members. So useful were the materials that they gave rise to an up-grading and expansion of some topics into much more complete handbooks, such as those on Divorce Procedure and the Collection Handbook. These contained in addition to the check list materials extensive discussions of remedies and procedures, practical information and copies of exemplar forms and pleadings. The sale of these handbooks was at a nominal price (\$3 for the Collection Handbook) and they sold by the thousands. All of this enhanced the continuing education of the bar.

The concern of bar and law school officials over the confusion and overlapping of CLE efforts has been previously mentioned. This resulted in a formal proposal to establish a new coordinating and operating entity, to be called the Institute for Continuing Legal Education for Wisconsin, soon known by the acronym CLEW. A detailed statement of agreement was presented to the Board of Governors at the June 11, 1963, meeting, and it was approved. It provided for a tri-party organization of the State Bar, the University of Wisconsin Law School and its Extension Division, and the Marquette University Law School. The purpose of the agreement was to promote a coordinated effort to raise and maintain a high level of post-graduate continuing legal education throughout the state, and to increase the level and availability of such training to all parts of the state by coordinating the efforts of all parties.

A committee representing the three entities was to manage the program, which was to be staffed and housed at the University of Wisconsin Extension Law Department, in charge of a paid director.

It was contemplated in the agreement that CLEW would be self-supporting through fees for the programs, all of which were payable to the University of Wisconsin. In fact, the institute was not self-supporting, and requested increasing subsidies from the State Bar. A most disconcerting factor was the Bar's inability to obtain an accurate accounting of costs and revenues, because of the complexities of the University accounting system.

The announcement of the new CLEW organization was made to the bar in August. The institute was blessed with a "really big one" to start off, namely, the new Uniform Commercial Code, and began immediate preparation for a series of institutes in 1964 on that subject. Meanwhile, CLEW prepared and conducted several shorter and less extensive institutes and clinics.

The State Bar was not precluded from carrying on its own CLE efforts. Some regional meetings were still held, several legal-medical clinics, and of course, the annual and midwinter meetings continued through their section programs to present a full package of timely CLE. Most significantly, the Bar retained the right to conduct its annual tax school, always held on the first Thursday-Friday of

December. During the 1960's this school was one of the largest bar meetings each year, on occasion surpassing 800 attendees.

Despite the "best laid plans of mice and men," the CLEW program from early-on encountered difficulties which eventually made it impossible to continue. First, being housed and administered out of Law School facilities, its image and rapport with the practicing bar was that of the University and not the State Bar. Then the practical administration of the institute fell into the trap of bureaucratic growth of staff and conformity to university policies. More importantly, the CLEW staff did not seem to have the sense or feel as to what the practicing lawyers needed and wanted in CLE. The CLEW programs were too little and too late. As an example, their first two institutes were "Photography and the Court" and "Disability Evaluation." But both were presented only to the annual convention of the Board of Circuit Judges, something quite outside the purview of the intent of the organizers of CLEW.

As early as April 1965, CLEW requested a \$2,500 subsidy from the State Bar. The Executive Committee recommended approval, but stated that as a matter of policy it was improper for the State Bar to make a fixed appropriation to any University agency.

The bar board was further perturbed in October of that year by a second request from the director of CLEW for "a sum of \$5,000 for the year 1966, to be used in the discretion of the Director of CLEW, exclusively for expenses related to the preparation, promotion and presentation of — (CLEW programs)." In effect, this was to be a free-fund, with no accountability to the bar, and in the words of the CLEW director, "this would provide an adequate sum for meeting crisis for which there is not available cash," i.e., for which the University accounting standards would not permit CLEW to pay.

This CLEW request was considered extensively. It was agreed that the request boiled down to the proposition of whether or not, or how much, the State Bar should be expected to subsidize CLEW operations out of its general funds. There was considerable discussion as to the effectiveness of the present CLEW type programs, and whether they were reaching the mass of the Bar and were providing the bread and butter type of practical assistance that the Bar members had expressly indicated they wanted.

In 1967 CLEW sought to carry programs to the far corners of the state through what is called a Telelecture series. This utilized the state's leased telephone network and operated by piping in over a speaker, usually located in the court house, a series of short lectures on law topics, often during the noon hour or late afternoon. Fees were low, but so was attendance.

Dissatisfaction with CLEW's operation was beginning to be apparent among the lawyers. In 1967, a most telling statement appears in the Executive Committee minutes for September 15;

"Discussion of CLEW Project. The Executive Committee members expressed much concern that CLEW was not meeting its desired objective in bringing to the lawyers in the several areas of the state practical, useful, and attractive postgraduate education sessions which would be well attended. It was the consensus of the committee that the current telelecture series is poorly attended. The committee was much concerned over the very meager number of statewide training courses made available. It was the state consensus of those present that unless CLEW can convince the Executive Committee as to the necessity and desirability of continuing a Bar appropriation to CLEW, that no funds be provided for CLEW in the 1968 budget, and such funds be otherwise used for regional meetings."

The bar's disenchantment with CLEW was exacerbated by the inability of the bar to obtain either a copy of the CLEW budget or a financial statement, and the fact that the CLEW staff was not only larger than that of the State Bar, but staff compensation was considerably higher. On that basis, the Bar felt that CLEW could never be self-sustaining.

During 1968 to 1969 the situation deteriorated. Despite the fact that the State Bar had five of the nine appointees on the CLEW board, CLEW was not effectively serving the purpose for which it was created. The practicing bar was unenthusiastic, and the State Bar met some of the need by stepped-up programming of its meetings. In his inaugural statement in June 1969, President Wickhem put the problem clearly: "Continuing legal education must become an integral part of every practicing lawyer's life—not a mere once or twice-a-year episode. The Wisconsin Bar must quarterback, implement and bring about a much larger and more effective post-graduate education program for lawyers."

During the previous December the committee on Post Graduate Education had proposed that more practicing bar members be added to the CLEW Council, that a comprehensive evaluation of continuing legal education in Wisconsin be commenced, and that consideration be given to formation of a non-stock corporation to handle all CLE. On the committee's recommendation, during this interim study period the Board boosted the CLEW subsidy for 1969 to \$7,500.

The matter came to a climax at the 1970 budget session of the Board of Governors when CLEW presented a requested appropriation, couched in the form of a demand, for \$35,000 for 1970, no strings attached. Consideration of the Bar budget was temporarily laid aside pending a full and pointed discussion and determination of what action should be taken on the continuation of CLEW. The history and current status of CLEW was fully reviewed. The result was a traumatic but not unexpected rejection of the request for the \$35,000 and in effect a "divorce" of the State Bar and CLEW.

Again, because the record so completely explains the

reasons for and the future course to be followed, and the fact that what transpired had such significant and lasting impact on the lawyers of Wisconsin, these Board minutes are incorporated in extenso.

(The following resolution, to take effect immediately, was offered and adopted):

A Resolution

WHEREAS, the original agreement under which CLEW was established in 1963 stated, "It is contemplated that the program of Continuing Legal Education should be self-supporting," and

WHEREAS, it is now apparent that the present type of jointly sponsored programs cannot be self-supporting or be continued without a substantial subsidy, which apparently will continue to increase, and

WHEREAS, it is not financially possible for the State Bar to make a substantial grant or subsidy to CLEW without reducing other Bar programs or increasing dues, now therefore

BE IT RESOLVED, that the State Bar shall assume the responsibility of organizing and offering to its members a broad program of seminars and institutes of advanced legal education, the cost, subject matter and timing of which can be controlled by the State Bar, and

BE IT FURTHER RESOLVED, that the officers and staff seek the full cooperation of the law schools at Marquette University and the University of Wisconsin and of the local and regional bar associations in carrying out the State Bar's program.

In order not to leave a vacuum, the following resolution was then offered and adopted:

A Resolution

RESOLVED, that in order to activate an effective program of advanced legal education immediately, the following steps shall be taken:

- (1) The Executive Director is designated as interim director of the program.
- (2) That the headquarters of the new program shall be at the State Bar Center.
- (3) That the new name for the program shall be Advanced Training Seminars of the State Bar of Wisconsin.
- (4) The president shall consult with the chairman of the committee on post-graduate education and shall appoint an advisory subcommittee of 15 persons to assist in organizing and guiding the project.

(5) The officers and the director shall seek a new agreement in cooperation and assistance with the law schools at Marquette and Wisconsin to obtain the maximum assistance and to avoid duplication and competition so far as is possible and shall seek the full cooperation of the local and regional bar associations.

(6) That the officers and the director shall arrange as speedy transition from CLEW to the new program as is possible.

(7) That as soon as is possible both a long-range and short-range schedule of seminars, institutes and publications be prepared.

(8) That all receipts and disbursements of ATS shall be deemed State Bar funds and accounted for accordingly, but separately identified.

Thus in a moment and a single stroke, a new venture was launched, soon to be named ATS (Advanced Training Seminars). Truly, a new era had commenced for CLE in Wisconsin.

The board, in almost these exact words, said: "Habermann, you take the \$35,000 and run a post graduate program the way it ought to be run." The executive director and his assistant willingly and enthusiastically launched into their newly added duties. The director then had a distinctive logo,

ATS, designed for the new program.

Either by perceptiveness or luck, or a bit of both, the initial choices for programs were both practical and timely. The first seminars were a sellout, and received great praise. The old saw, "nothing succeeds like success" proved true. Happily, there was a huge package of new law and procedure to learn, as the probate and real property laws had been revised extensively. The ATS programs dwelled heavily on the new substantive rules, but also on the where, how and what of the new practice procedures. Fees were held to a minimum and covered all costs to the State Bar, and indeed permitted a surplus to be built.

Not a penny of the authorized \$35,000 was ever needed. The undertaking was off to a highly successful start. No doubt, the key factor was in giving the members what they wanted, on a timely basis, at convenient times and locations, and with top grade materials and lecturers.

The abandonment of CLEW by the State Bar and the launching of ATS did not cause the law school or extension division to discontinue CLEW. With state subsidy, the program continues to date with both telelectures and seminars, and with a sizeable staff and budget. Coordination with ATS-CLE remains minimal.

ATS continued to prosper through the next years. In

his annual report in 1972, the president summarized the situation:

“The past year has seen the State Bar take the initiative and an expanded role in the field of Continuing Legal Education. The Post-Graduate Education committee and the staff have developed a most successful educational program under the banner of ATS. From April 1970, through May 1972, seven series of seminars were held throughout the state of Wisconsin with an attendance of over 5,550 lawyers. The educational and financial success of ATS assures the Bar of Wisconsin that its educational program will have a bright future. We have learned much during the past year and will put this knowledge to good use and make ATS bigger and better.”

During 1973 the ATS activities were operating at an increasing tempo and meeting widespread demand by the lawyers. The Post Graduation Education Committee began discussions of the necessity for expansion of the program in view of the potential developments in the field of recertification, specialization, and the general need for upgrading the bar's ATS effort, including additional staffing. The need for a full-time director was becoming apparent, and in July 1974, the committee recommended such position be added. In December 1974, a full-time ATS director was chosen by the appointment of Dalton Menhall, who for five years had assisted the Executive Director in managing ATS, at the same time as he served as his assistant.

This marked the first big upward turning point for ATS.

Advent of Mandatory CLE

In 1973 a new idea in bar circles inched up over the horizon. The executive director returned from the ABA convention and alerted the executive committee to the fact that several states, including California, Minnesota and Iowa, were considering making attendance at continuing legal education courses mandatory. He suggested that this was an idea, good or bad, that must not be ignored. The President immediately appointed a committee to gather information and study the matter, which it commenced to do promptly. By mid-1974 the committee had a draft plan almost ready, having been working steadily but quietly. At this juncture one of those odd turns of fate occurred. The bar president, while walking through the capitol, met the chief justice, who had recently returned from a national conference of chief justices. The chief broached the subject thusly: “Say, we've been hearing about this idea of mandatory CLE and think it's a good idea. Can the State Bar propose a plan to the court, or should we go ahead and present one ourselves?”

The chief justice, of course, had no inkling that the bar

had long been studying the idea and had a draft ready. The president informed him that the bar would indeed present a plan, and promptly. Like a magician, it is easy to pull a rabbit out of the hat when you know that the rabbit is there. The plan was submitted to the court on Sept. 30, 1974, and the court scheduled a hearing for March 24, 1975. In due course the court adopted the concept in principle and ordered the bar to hold a referendum on the matter of mandatory CLE in the summer of 1975. This was done, and with heavy balloting, the bar supported the mandatory concept by a resounding 3,905 yes (71.6%) to 1,551 no (28.4%) vote.

A Continuing Legal Education Board was established by the court on November 21 and it drafted proposed rules implementing the mandatory concept. These rules were heard by the court on May 25, 1976, and adopted June 29, effective Jan. 1, 1977. The rules were precise and required each active lawyer under the age of 70 to complete a minimum of 15 hours of approved continuing legal education each calendar year. Initially the expenses of the board were born by the State Bar, but later by an annual fee paid by each lawyer.

This had an inevitable positive effect on the attendance at ATS seminars. Although the majority of lawyers had attended various bar sessions, as well as other CLE meetings, there was a large number who had not been in attendance at any sessions at any time or place. This produced an increase in ATS registrations, which soon became sizeable. While ATS was not the only approved provider, it quickly became generally accepted by the lawyers as the chief provider of quality CLE in Wisconsin, and in due course probably attracted at least 60 percent of the added CLE hours. This had both budgetary and staff impact on ATS. Moreover, with the mandatory concept came a responsibility to make CLE available in all areas of the state, which was done, and by launching what has developed into a first-class video CLE program.

From 1969 until 1974, ATS programs were organized by the State Bar Executive Director and his assistant, who at that time was Dalton Menhall. No effort was made to account for the salaries of Menhall or anybody else who worked on programs. The overhead expenses associated with the production of programs and materials for these programs were paid for out of receipts. As ATS programming burgeoned in 1973-74, so did its budget. By July 15, 1975, ATS had a reserve of \$102,359. Although it had early been determined that CLE was a primary function of the State Bar, it was generally understood that ATS must be self-supporting. Accordingly, its funds were separately accounted for and budgeted.

Beginning in 1976, the Board of Governors made ATS a financially self-sufficient organization, and overhead began to be paid into the State Bar General Fund to account for salaries, office space and support services. This concept of financial self-sufficiency was given official recognition

by the Supreme Court in its 1977 per curiam opinion where the Court states that "ATS should be self-supporting and not funded by dues, and ATS revenues should not be used to finance other State Bar programs."

Since ATS was quartered in the Bar Center, and utilized bar facilities extensively, particularly the computer, mailing division and storage, inevitable problems arose as to the fair reimbursement of the State Bar for services provided.

As ATS seminars grew, some proved to be very profitable. For example, in 1975 900 attorneys attended a session on the new rules of civil procedure in Milwaukee, and total attendance statewide was 1,800. At this point ATS was moving into printing "heavy" and extensive materials to accompany the lectures. This required more staff, more storage, and the entire CLE operation was approaching that of the State Bar in size and scope. Installation by the State Bar of detailed cost accounting, utilizing its new and large computer, aided in arriving at fairer cost distributions, but the problem continues to date, namely, what is a fair allocation of overhead between the two separate but allied operations under one roof?

In any event, by upward adjustment of ATS fees and tight budgeting, ATS remains on a self-supporting basis with adequate reserves to even off the ups-and-downs from year to year. It has met heavy competition with success. Given the size and scope of ATS operations, this is an accomplishment to be proud of, and ours is one of the very few in the entire country to be sustained on so stable a basis.

From 1974 onward, CLE zoomed under impact of the electronic age. Historically, the use of videotape to deliver programs to outlying areas of the state was a most significant development. ATS-CLE was among the first in the country to use video this way and was the very first to use large screen projection systems in playing tapes. We continue to be in the vanguard in developing creative uses of video as shown by such programs as the Evidence Series, the Civil Trial Demonstration series, and others.

Typically a seminar is given live at two locations, videotaped at the second live location and then shown on videotape at four and sometimes six video locations. Questions at the video locations are handled using a teleconference hook-up between each program site and one or more of the seminar speakers. Videotaped programs are usually presented on large video projection screens. The use of videotape has been well accepted by the state's lawyers and has made it possible to bring programs to many more locations than would otherwise have been possible.

In addition to these one day seminars, ATS-CLE also handles the logistics associated with the CLE sessions at the State Bar annual and midwinter meetings. The State Bar sections plan topics for their CLE programs and recruit speakers at these meetings, but the ATS-CLE staff works with the speakers in getting written outlines into printed form and generally handles all logistical aspects of the

program such as publicity, meeting rooms, audio visual equipment, sleeping rooms for speakers, etc. The amount of staff time and associated overhead spent on convention programs is the basis for an annual interfund transfer from the General Fund to the ATS-CLE Fund to compensate for these services.

As of June 1986, ATS had a staff of 12. It occupied much of the second floor of the Bar Center. Its fiscal 1986 budget projected income of \$1,348,000 and expenses of \$1,313,673, with a reserve of \$250,000. Book sales of \$415,000 are included, as is income from audiocassettes and videocassettes of \$30,000. During the year 43 institutes were presented and registrations totaled 14,500.

In retrospect, it is clear that Wisconsin's leadership position in CLE came about because of the dedication and leadership of a few people. Without in any means slighting the hundreds of hardworking CLE committee members and speakers, the zeal, understanding and support given to the program by J. Paul Morrow of Dodgeville, who was either on or serving as chairman of the committee on Post Graduate Education throughout the entire era from 1967 to 1985, was a fundamental factor in the amazing growth and success of ATS and our CLE program in general. During this period the perceptive and effective administration of the program, initially by Habermann and Menhall, and for the past ten years by Gary Wilbert, assured continuity and the production of the sort of seminars the members wanted. The high level of attendance at seminars and the fact that in 1983 80 percent of the members ranked CLE as the Bar's most useful activity prove the worth of the program.

Chapter Seventeen

The Growth of Sections

Wisconsin is one of the states where the bar organization makes extensive use of sections. A bar association depends on its members for continuous activity and study in the various fields of law. While both committees and sections offer a means of increasing membership participation, sections offer the greatest opportunity because their membership is unlimited and open to all who wish to participate. Committees are appointed and deal with specific assignments, whereas sections are devoted to fields of substantive law and practice.

Our use of sections has a long history. In June, 1926, U of W Law School Dean Richards proposed creation of a permanent section on Corporation and Business Law. No action was taken. The idea surfaced again in June, 1930, when it was proposed to create a Commercial Law section. A committee of five was appointed to study the proposal and report to the 1931 annual meeting. That committee reported that it was of the opinion that "it would be unwise, at least for the present, to establish a precedent for reducing the Association into smaller units."

That obstacle was removed in June, 1940, when the constitution was amended to give the Board of Governors the power to establish from time to time sections based on divisions of law in which the members have special interest. The President would select the section chairmen.

By the following August, sections had been created for Insurance Law, Real Property, and Taxation. These sections are today the three larger sections, and each is very active.

In 1950, the bylaws of the association were changed to permit the House or Council to establish sections on any subject of law or jurisprudence, to be open to any member.

By 1953, the sections were:

Real Property	339 members
Insurance Law	243 members
House counsel	112 members
Labor Law	78 members
Taxation	242 members
Business and Corporation Law	215 members

In 1955, the Family Law section was established. But not all sections prospered. In 1956 a Military Law section was created for a two-year trial period. It never gained momentum, and later was abolished. So, too, was a section on Bar officers, which was disbanded for lack of membership, the local bar officers being too transitory a group to merit sections status, nor did it deal with a field of

law.

In 1957, sections were encouraged by the Executive Committee to publish section newsletters, to be paid for out of the bar's operating budget. At that point, no sections were permitted to charge dues. All necessary expenses were paid for out of the bar budget. The Insurance and Negligence and Workmen's Compensation Law section published a fine newsletter for several years. Other sections did so sporadically, depending on volunteers to edit the newsletter.

In June of 1958, the executive director noted in the BAR BULLETIN that the year had been marked by a steady increase in section membership and activity.

Most of the sections met at the time of the Association's annual and midwinter meetings, although a few, such as House Counsel and Labor Law, held meetings during the year. In fact, both of the bar's annual sessions became built around the section programs. This greatly increased the attractiveness of attending these meetings, as there was "something for everybody" on the program. The willingness and ability of the section directors to produce two practical programs a year significantly aided the bar staff in putting together attractive programs. Sections were allocated funds to pay expenses of not more two out-of-state speakers per meeting, although in practice most speakers were from Wisconsin.

In June, 1958, the Labor Law section requested permission to charge \$2.00 annual dues. Since it would cost that amount or more to bill and collect so small a sum, the Board declined to permit it, offering to fund necessary costs out of its regular budget.

By 1975 the young lawyers were increasingly numerous and in need of an entity of their own. While there had been Young Lawyers groups in Milwaukee and Madison, statewide the younger members were quickly assimilated into the local bar associations. Nevertheless, in February, 1975, the Board of Governors petitioned the Supreme Court to amend the State Bar Rules to create a Young Lawyers Division within the State Bar. The court approved, and henceforth the new Division was represented on the Board.

Because of the increasing activity by some of the sections, in January, 1975, the Board approved a proposal to provide paid reporters for the sections. The reporters were to be responsible for keeping current on case law development in their respective fields, and to edit section newsletters. The reporters were to be financed out of the State Bar budget, and sections would not charge dues. This idea ran into practical and budgetary difficulties, and never got off the ground in any effective manner.

The bar continued to promote section membership. A special announcement in the February, 1976 BAR BULLETIN invited the members to join any of the twelve sections, and provided a coupon to check and mail for that purpose.

By 1976 section activity began to outrun the funds budgeted. Many sections were creating committees, which requested reimbursement for expenses. A letter was sent to all sections informing them that each section must live within the funds allocated in the bar budget, and that the section or committee expense could not exceed that amount. Section boards were urged to establish priority projects for the year.

This need for funds soon forced reconsideration of the "no section dues" policy, and commencing in 1979, section dues were approved and were billed and collected by the State Bar along with the annual bar dues. This was made feasible by the new computer accounting and membership record system, which had taken over from the old Addressograph system on which the separate section membership rolls were maintained.

In 1976 the Negligence Law section went through another name change, this time to be called the Litigation Law Section.

Early in 1984, a General Practice section was established. The Board provided a \$1,000 start-up fund.

Meanwhile, another division had come into being, that of the Non-Resident Lawyers. Largely because of our diploma privilege admission, Wisconsin had a non-resident roll of 1,371 active members in 1986. These lawyers sought and were given representation on the Board of Governors, currently by 3 delegates. The division has been especially active in the Washington, D.C. area, where a large number of division members practice.

As of 1986, there are 15 active sections with a total membership of 14,911, plus 3 divisions with an enrollment of 5,668. These groups contribute greatly to the direct involvement and participation of members in bar affairs and they play an invaluable part in the bar's overall activity.

Chapter Eighteen

Annual and Midwinter Meetings

A vital part of any association is the holding of an annual meeting. From its earliest days this was the key event for the Wisconsin State Bar Association. In fact, until after the reorganization of the Association in 1948, it was the major activity of the Association, except for midwinter gatherings in later years.

While the constitution of the association called for "a meeting of the Association once in each year, and such other meetings as the Association shall appoint", in the 21 years from organization in 1878 to 1899 there were only eight annual meetings. Since then annual meetings have been held every year, without interruption. (A table of dates and places of all annual meetings is included as Appendix B).

Throughout its history, the Association has been peripatetic with its meetings. The first four were held in Madison; the next four in Milwaukee; then back to Madison for four, then to Milwaukee twice, once to Madison, then to Milwaukee for seven years. Commencing in 1913 the meetings were taken around the state, with local bars vying to invite the sessions. This continued until 1934, when the meeting was held at Lawsonia, a lovely resort owned by a church group on the shores of Green Lake. President Doar frankly admitted, "We are trying an experiment this year." It proved to be a happy one, and that location prevailed for nine years, interrupted by meetings in Milwaukee and Madison. During the WW II years, transportation difficulties forced the meetings back to Madison and Milwaukee. Beginning in 1946, with only several exceptions, the sessions were scheduled in resort hotels in mid or southern Wisconsin.

Originally the annual meetings were held in February. In 1901 the members questioned the advisability of holding meetings in the winter and suggested the summer season. Commencing thereafter the meetings varied from March to September. In 1920 it was voted to hold the annual meeting in mid-June thereafter, and this was done.

In perusing the record of a typical annual meeting held in Milwaukee in the early 1900's, the session opened in the U.S. Court Room at 8:00 p.m., with only the President's address being heard the first evening. The second day heard committee reports, the election of new members and the treasurer's report, followed by two or three addresses and the nomination and election of officers.

The meeting concluded with a reception at the Plankinton Hotel at 6:30 p.m., followed at 7:30 by a banquet with a rather lengthy program. Apparently attendance was small.

When the innovation of out-state meetings began in 1913 with the session in Wausau, it was jubilantly reported

that there was a "larger attendance than ever had in Milwaukee - in fact, it was the largest meeting ever held". Considering that virtually all who attended travelled by train, this was a remarkable accomplishment. In view of the attendance, the bar decided to meet in Green Bay the next year.

Choosing the meeting site and arranging the program occupied much of the Executive Committee's time and effort. During the 1920's the minutes are replete with discussions of where to meet and selection of a program.

As the bar grew and transportation eased, there was a realization that the Association's business required more than an annual session. Thus was born the first Mid Year meeting in 1927, followed by another in 1928. The first midwinter session was held on February 15 in Madison. The meeting was for all officers, the district vice-presidents and committee chairmen and members. In 1928 the meeting was in Milwaukee on March 16.

In view of the success of the first two sessions the Executive Committee decided to hold a meeting on February 25, 1929 in conjunction with a meeting to be arranged by the Dane County Bar Association, the two associations to cooperate on arrangements.

Difficulties with transportation in February gave some problems, but on December 3, 1934, the Board voted to continue the midwinter meetings notwithstanding. It was decided to hold the sessions near Washington's birthday. This settled into a pattern, and when the meeting was transformed into an institute, the 1941 session was deemed very successful. The Executive Committee recommended that the midwinter sessions always be held on the Saturday closest to Washington's birthday. It also requested the Board of Governors to designate the midwinter meeting as the time for transaction of most of the association's business, and strikingly, "that the sections be better utilized in programming." This is apparently the first step towards a CLE-type of program.

The travel proscription of ODT forced abandonment of the midwinter meeting in 1945. The meetings resumed in 1946 in Milwaukee, with 200 in attendance on February 23. The 1947 session attracted 320. For the first time, in 1946 a \$1.00 registration fee was imposed to defray expenses.

During WW II the annual meetings suffered under the same ODT restrictions on travel. In 1945, the June session was attended by only 157 members, of which only 41 were from outside Milwaukee County. By 1946, attendance was back to normal, with 350 registering at the Lake Delton meeting.

While a great many judges attended the meetings of the association, there were many who did not and who refused to permit lawyers who wanted to attend to have a postponement of their cases. This was a minor sore spot for years (and occasionally still is). It brought this action in 1949:

"President McGalloway suggested that a communication be sent to the circuit, county and other judges of the state, under the authority of the Board of Governors, asking them to refrain from setting matters for hearing or trial during the Board meetings. Mr. Habermann reported that he had sent such a letter to the judges, but would send out a reminder."

Following the opening of bar headquarters in 1948, the Association settled into a regular pattern of an annual June convention and a February midwinter meeting, the latter always in Milwaukee. The conventions were held at Elkhart Lake for several years, then at Eau Claire and in 1955 in Green Bay. In June of 1954 the minutes note:

"With the largest registration in history, President Hallows pointed out that the activities of the association are reaching a new level. (Total attendance at the Midwinter Meeting was 703, registered, with more than 500 persons being present at the Legal-Medical Institute on Thursday.)"

This increased attendance resulted from many factors, including the rapid growth in membership, better programming, the growth of the sections and a generally increasing interest in the association.

This was not without problems. Milwaukee was the only city with hotels large enough to accommodate the midwinter meeting. There was then no resort large enough to fully accommodate the summer attendance, especially since the several sections held simultaneous sessions and at least six meeting rooms were required. The resort best able to house the convention was Lake Lawn, near Delavan, and in June of 1955 it was decided to schedule the 1957 meeting at Lake Lawn, the 1956 session having been set for Madison. There it remained for some years, until even larger resorts were developed at Lake Geneva and Fontana.

Money problems arose, and in 1962 the policy of charging a registration fee was imposed for both meetings, although it was only \$2. This has now increased substantially so as to make the two meetings pay their own way.

Throughout these years the same general pattern was followed for the meetings. Each had a first day when the Board of Governors met, followed by two days of section meetings, which had developed into effective CLE sessions. At each meeting there was one dinner session with a featured speaker, and usually a midwinter meeting luncheon. Attendance continued to grow, filling the hotels to capacity. Fortunately, since 80% of the lawyers lived within a two hour drive of either meeting site, many members drove in for one or both days.

In the mid 1970's the bar began experimenting with changing the traditional dates and places of the meetings.

In 1978 the midwinter meeting was expanded to three days. In June, 1980, the convention was held on Mackinac Island, Michigan, and had the lowest attendance of any convention in recent years. Snow was perceived to be a significant problem with respect to a midwinter meeting in Milwaukee in January or February. As a result, in 1981 the bar switched from a midwinter (January) - Annual (June) sequence to a spring (March or April) - fall (September - October) sequence. Attendance held up quite well. The spring meetings were attended by 1,403 (Milwaukee, 1981) and 1,109 (Madison, 1982). Fall attendance was 650 (LaCrosse, 1981) and 865 (Americana, Lake Geneva, 1982).

Nevertheless, there was dissatisfaction with the late spring-early fall schedule, and a special committee was appointed to study the situation in 1982. The committee duly reported:

"The Special Committee on Conventions hereby submits its report and recommendations with respect to number, format, timing and location of future conventions of the State Bar of Wisconsin.

RECOMMENDATIONS

1. The Committee recommends that the State Bar hold two conventions per year, one of three days duration (with continuing legal education (CLE) programs) and another of three days duration with one day devoted to bar business (also with CLE and social programs at such convention).
2. The Committee recommends that Sections and Divisions be requested to present a CLE program once per year but may have the option of presenting two CLE programs per year.
3. The Committee recommends that the conventions be held in a June-January (or February) sequence.
4. The Committee recommends that the conventions be held in Milwaukee and the Lake Geneva resort area.

The committee report was based on extensive research and surveys, and was accepted by the Board. Hence the bar has come full-circle since the pattern was established in 1948, and has for the time being settled on a June convention in a resort hotel and a midwinter meeting in Milwaukee. Overall, this seems to produce the greatest attendance and satisfies more members than other plans.

The advent of mandatory CLE in 1976 has significantly impacted meeting attendance. With heavy CLE programming by the sections, lawyers can meet all of their mandatory credits by attending the annual and midwinter sessions.

One has but to peruse the meeting programs to see at a glance that the vast smorgasbord of attractive seminars

offered is an unbelievable far cry from the modest sessions offered in the early 1950's. The growth and maturation of the annual and midwinter meetings is indeed a bright spot in the array of services now offered to the members.

Chapter Nineteen

Fee Schedule

For a hundred years after statehood Wisconsin lawyers were inadequately compensated. In the earliest days most law work was charged for at flat rates - deeds, wills, contracts, notes, and the like. Court work was largely on a daily rate, and most of the lawyers who became well off did so through side ventures. Much of the fault lay in a haphazard system of charges for service. The earliest record of anything resembling a fee schedule pre-dates the formation of a local bar association. It is a flyer entitled "Fee Bill of the Bar of Milwaukee County, adopted March 12, 1844." It notes "all prices in all cases stated as the minimum" and continues by listing the several charges. It is signed by a dozen lawyers. The informality of these ways come to an end in Milwaukee, when on March 25, 1858 the local bar association adopted its first fee schedule. The Dane County Bar Association soon followed suit and by the end of the century many local bar groups had some sort of fee bill.

The Milwaukee bar's schedule, as revised to date, was published in the state association's proceedings in June, 1921. In June of 1928, the new BAR BULLETIN included a summary of the fee schedules from 19 local bar associations, compiled by the Supreme Court Clerk. The compilation gave the range of fees in each category, and led to the promulgation of the first recommended statewide fee schedule, which was formally adopted in June of 1929. This schedule contained a special provision on contingent fees.

Immediately post WW II the economic pressures on the lawyers led to a revision of the fee schedule, which was published as a supplement to the August, 1947 BAR BULLETIN. A further revision was adopted by the Council in November, 1950 and published in the BULLETIN. A still further (and upward) revision was adopted in September, 1957. Local associations were urged to adopt the schedule, and by April, 1958 over half of the local associations reported adopting new schedules since January, 1957. Slowly and haltingly, the bar was putting its economic house in order.

By 1959, a far-reaching revolution in law office management was under way. The advent of the electric typewriter, the copying machine and accurate time records were pointing lawyers to new ways. The American Bar Association's committee on Economics of Law Practice hammered hard at the economic plight of the profession and what could be done about it. The post-war lawyers were keenly aware of the poor economics of the profession. The stage was set for an event that had far reaching impact on the lawyers'

pocketbooks.

The fee schedule was extensively revised in September, 1959. Under the leadership of President Terwilliger, who had an unusual perceptiveness and insight on lawyer economics, the Executive Committee voted to publish and distribute to all 6,000 members a "Minnesota Type" fee schedule book. Minnesota had recently issued its schedule in a convenient loose-leaf desk top binder that had met great success. \$12,000 was appropriated to pay for the fee book. Binders were procured, the schedule printed, and it was shipped to all lawyers and judges by February 1, 1960.

The new schedule of minimum fees hit the bar like a welcome rain on parched fields. Partly because of the attractive binder and the ease with which the schedule could be used, within six months the recommended fees became accepted statewide as the reasonable and customary minimum charges for lawyers' services. The fee book urged the members to recognize that an average charge of \$18 per billable hour was necessary if the lawyer wished to net, before taxes, but after payment of overhead costs, about \$14,500 per year.

The impact of this new schedule was estimated to have raised the lawyers' incomes by 25% to 50% within three years. Coupled with new law office management techniques, the lawyers were well on their way out of the financial morass that they had suffered through for 100 years. Several updates and additions were issued in the following ten years by the special committee on Economics of the Bar (27 members), but the brown covered Schedule of Minimum Fees was a standard fixture in most law offices for 12 years.

While the fee schedule was never designed to be other than a guide to fair charges, and only minimum charges at that, an opinion by the Ethics Committee to the effect that continued, flagrant and publicized fee cutting was in effect a form of advertising and as such a violation of the Canons of Professional Conduct undoubtedly led many to fear sanctions if they cut fees. The State Bar did formally change the name of the schedule from one of minimum fees to a "customary fee guide" in June 1972 but this came too late to save the schedule.

Although republished and clearly designated as a fee guide, and not mandatory or compulsory, this did not satisfy the federal officials that the anti-trust implications of fixed fees had been eliminated. The anti-trust division of the U.S. Department of Justice "opened a file" on the State Bar late in 1972, and notified the Executive Director that suit would be commenced to

force discontinuance of the fee schedule. The Executive Committee thereafter ordered that an appropriate statement be inserted in March, 1973 WISBAR making clear to the members that in February the Board of Governors had abrogated and rescinded the former minimum or mandatory fee schedule in Wisconsin. This was done and upon being informed that there no longer was such schedule in Wisconsin, the anti-trust division "closed its file" and the matter was dropped. Within the year, acting under similar pressure, almost every state bar had repealed its fee schedule.

This repeal had an unanticipated favorable result. The Executive Director reported a year later that "when he traveled about the state immediately after the bar's repeal of the schedule was announced he almost needed hip boots to avoid the 'crocodile tears' of woe that the lawyers were shedding over the demise of the schedule, but that twelve months later the same lawyers were sheepishly admitting that the repeal was probably the best thing that had ever happened to the bar." What happened was that there had been massive shift to keeping time records and charging based on time. This shift was largely due to the rescision of the schedule. This not only produced greater income but fairer fees to the clients.

Nevertheless, the Fee Schedule Binders remained in most lawyer's libraries, and inevitably were referred to. In fact, in late December, 1973 President Cross, no doubt motivated by the anti-trusters looking over our shoulder, felt compelled to speak to the Board of Governors, thusly:

"The President discussed the misunderstanding still existent in some quarters concerning the former minimum fee schedule of the State Bar of Wisconsin. He emphasized that it was essential that the members appreciate that the fee schedule has been abrogated and eliminated; that under the current interpretation of the anti-trust statutes it is impossible and illegal for any bar association to have any type of fee schedule; and requested that the Governors convey this message to the lawyers and local bar officers in their several districts."

Despite the fact that on December 29, 1967 Senator William Proxmire advised the Executive Director that, "I have been advised by the Attorney General of the U.S. that there is no possible anti-trust action that can be taken against the State Bar Association," administrations and views changed. This culminated in Goldfarb, et. al. v. Virginia State Bar, et.al. (1975) in which the Virginia bar was held by the U.S. Supreme Court to have violated anti-trust statutes with its fee schedule, and was assessed large penalties. That case clinched the doom of all fee schedules, mandatory or advisory.

Following the abolition of the fee schedule, the Wisconsin Supreme Court gave the bar something even

better. In a case involving fees for criminal defense, the court recognized in its opinion that a fee of \$45 an hour was entirely proper as being the prevailing average rate. Coupled with the bar's shift to time records and hourly charges, this pronouncement of the court was a welcome reinforcement to the fees being charged.

In retrospect, the adoption of fee schedules by the bar association were, in light of the times and conditions, both essential and useful. The sad state of the bar economics in the early 1950's, fraught with non-businesslike practices and lack of record keeping, made the publication of the fee schedule book in 1960 timely and helpful. That book also contained many practice and office management tips, and these were supplemented by articles in the BAR BULLETIN. By the time the anti-trust attack was mounted, the fee schedule had accomplished its purpose, and undoubtedly had outlived its usefulness. The economics of the bar had turned around and the State Bar was instrumental in bringing it about. The large numbers of new lawyers were being absorbed without difficulty. Law office management was the "in" thing, and the advances in office equipment greatly increased productivity. The computer age was dawning and the lawyers were ready for it.

Chapter Twenty

Relations With the Courts

It is axiomatic that the paths and relationships of the bar and the courts are closely intertwined and mutually supportive. The courts, as the third branch of government, have broad and independent powers to control the admission and practice of lawyers, to establish rules for adjudication of matters, and for practice and procedure. Moreover, judges were lawyers before they became judges, and the legal profession is of its nature a closely-knit one. Yet there always has been, and ought to be, a clear independence between the lawyers and the courts.

The relationship between bench and bar in Wisconsin has been a long and generally satisfactory one. The changes since 1836 are monumental, to the good of both the bar and the public. Wisconsin has had an elected judiciary for most of its history, although because of retirement or death most new judges get on the bench by appointment by the governor. After more than a century the office of justice of the peace was abolished, and judges required to be lawyers. Those actions and the unification into a one-level trial court system are the most significant changes. The addition of the intermediate appellate courts in 1979 rounded out a century of change, in which the bar association was inevitably closely involved.

Although the initial meeting which resulted in organizing the association in 1878 was called largely to consider the filling of two judicial vacancies, the association did not act thereon. In fact, with a few exceptions, the association has participated in judicial appointments only when asked to do so.

The direct concern of the association with the welfare of the courts was exemplified by its action in February, 1901 when the association appointed a special Committee on the Courts to confer with the judges of the several courts "in respect to legislation affecting the courts and matters pertaining thereto."

Two years later the association voted to authorize the secretary to obtain printing and stamps to procure cooperation of the lawyers of the state in supporting a constitutional amendment to increase the Supreme Court from five to seven members.

The hearts of the lawyers proved to be in the right place in 1910, when a committee of the Association raised \$7,000 in contributions to erect monuments over the unmarked graves of two ex-chief justices, Dixon and Ryan. Again, in 1919, the lawyers reached into their pockets and while Justice Winslow was terminally ill, the bar raised \$18,000 and paid it to his wife as a gift, to defray costs which she could not pay.

Concern over the low pay of judges was repeatedly voiced, and in June 1910, the convention adopted a

resolution urging Congress to materially increase the pay of Federal judges.

In 1911 the Association recognized a strong sentiment for reform of court organization and legal procedure, and appointed a special committee of seven members of Practice and Organization of Courts, with the duty to investigate the subjects of civil and criminal procedure and the organization of the courts and to report recommendations for changes in the Wisconsin Code or in the organization of Wisconsin courts. The proposal to appoint this committee was seconded by Chief Justice Winslow, who said, "It seems to me that it does present an opportunity for the Association to do a little something in the way of constructive work. If this Association is to amount to anything, it certainly should take some share in the movements which are now going on. If the Bar Association can be of any assistance at all it can be of assistance right here."

The fight for judge's pensions was led by the association, and it took nearly 40 years to gain success. In June 1916, a committee was authorized to draft a bill for retirement of judges. A bill covering only the Supreme Court failed to pass in 1917, but the committee was continued. In June 1920, another retirement bill was drafted and introduced. The committee reported in 1921 that Bill 365, S, had been introduced and defeated. That plan was for circuit judges only.

Judicial pay was a constant concern. In 1925 the Executive Committee favored a bill to allow the county boards to supplement the salaries of circuit judges. The committee also favored passage of legislation to increase the pay of state and Federal judges.

In 1929, President E.J. Dempsey made a strong pitch for better pay for judges and for a retirement plan. The Association appointed a special committee to carry out his recommendations.

The next year the annual meeting went on record in a more forceful manner, adopting the following:

"Resolved, that the Association endorses the movement to increase judicial salaries to an amount commensurate with the duties, and that the local bars use their influence to bring about an increase in salaries."

Retirement for the Supreme Court was also being talked about.

The Code of Judicial Ethics of the American Bar Association was adopted for Wisconsin at the annual meeting in June 1925. This was a unilateral action of the Bar, for in announcing the voice-vote for adoption, the president said, "The ayes have it, Gentlemen, and the Cannons are adopted as the judicial ethics of this Associa-

tion and of the Bench and Bar of Wisconsin, as far as we have any influence, and they will be spread upon our records and our proceedings.”

The first formal step to insert the Association into judicial selection came in 1926 when a Judicial Selection Committee was appointed, its creation having been urged by the Conference of Bar Association Delegates of the American Bar Association. The function of the committee was to seek to record the voice of the State Association in the selection of judicial candidates and to seek to serve and influence local bar associations in establishing like committees.

In reporting to the 1928 convention, the committee chairman said that the attitude of the then governor in cooperating with members of the bar on judicial appointments had been most commendable, and

“is an invitation to — give such serious and active interest to this subject as will warrant the executive in placing a safe reliance upon suggestions coming from some well formulated expression of the judgment of the bar as to the fitness of those seeking judicial office.”

While that statement precisely stated the objective, only a few governors since then have requested the Bar’s advice on judicial appointments. The committee had considered whether to recommend a statewide Bar primary and decided against it. The committee was keenly aware that “Just how far the Bar should go in attempting to influence the selection of judicial candidates is a question upon which there is a great difference of opinion.”

The committee was continued and in 1929 offered the convention a proposal to poll the Bar members as to the qualifications of candidates for the Supreme Court. The convention adopted it. But little came of the proposal, and the discussions continued.

The Bar and the Court were increasingly aware of the potential of the rule making powers of the Court, and in October 1929 the Executive Committee appointed three members (Fischer, Boesel and Butler) to the new committee established by Chapter 404, Laws of 1929, creating the Committee on Pleading, Practice and Procedure.

Opposition developed to the idea of the court exercising its rule making powers through the establishment of the committee. The Bar had strongly favored the Court making its own rules. When the Act was challenged, the Court held it constitutional, and the legislature refused to repeal it. In June 1931, the court acted to promulgate 15 new rules or amendments out of 19 recommended by the committee.

All through the 1930’s and 1940’s great concern was voiced about the diversity in practice and procedure in the lower courts. The Bar leaders recognized that there existed a real mottled judiciary system, which had been a problem for years. In his address to the convention in June 1930, President A. W. Kopp said, “I submit that the State Bar Association can do no greater piece of work than to get

back of a movement to — standardize and harmonize our courts.”

In 1931, the court reaffirmed its inherent control over the Bar in the Cannon case, in which the legislature had sought to reinstate a disbarred attorney by enacting a special law. The court held the act unconstitutional. The Bar had filed a brief in support of the position taken by the court.

Judicial retirement was placed “on the back burner” in 1931, the Bar accepting a recommendation of the committee on Salaries and Retirement Systems for Judges that said, “Because of the depression, it was not considered wise to attempt to secure any judicial retirement legislation during the present session of the legislature.” This derailment and the lengthy depression, followed by WW II, did not get on-track until 1949.

Minor events are recorded in the two decades following 1931. The Bar considered whether county or municipal judges (who were mostly poorly paid) should also practice law. The proposal did not bear immediate fruit.

On Aug. 1, 1935, the Supreme Court assumed a new look. On that day the court donned robes for the first time, for the August, 1935 calendar. Previously the justices had worn long black cutaway or Prince Albert style coats, with grey striped trousers. (The circuit and county courts did not follow suit for many years.)

A long-running debate as to whether the Supreme Court should sit in two divisions, rather than en banc, was put to a vote of the Bar when the members were polled on the idea in 1939. The Board of Governors had approved giving the idea a trial. The idea lost on a vote of 525 in favor of en banc and 419 favoring divisions.

In 1945 the judicial system had its feet put to the fire when Fred R. Zimmerman, Secretary of State and a nonlawyer, ran for the Supreme Court on a claim that he would be the “people’s judge.” Despite his record of vote-getting, Zimmerman was resoundingly defeated by Elmer Barlow. The result was action to amend the constitution to limit the court to lawyers. The Bar was deeply and actively concerned in passing this amendment.

In September 1945, the Association lent its best efforts to secure the appointment of Justice John D. Wickhem to the United States Supreme Court. Despite unanimous support of the Board, its resolution to the President and the U.S. Senators fell on deaf ears.

The quest for a plan of judicial retirement began anew with the introduction in the legislature in 1945 of Bill 347, S. The bill was drafted by the Bar Committee, and approved by the Executive Committee as a “reasonable retirement system.” A legislative interim committee held a hearing on Jan. 14, 1946, at which the Bar supported the bill. It did not pass, but recognition of the need for a retirement plan was growing. The opening blast of the drive which finally succeeded was presented in an article in the February 1949 Bar Bulletin, entitled “The Case for

Judicial Retirement," by Louis W. Staudenmaier. The Bar Committee, cooperating with a committee of judges, worked assiduously on the matter, and after intense lobbying by the Bar, the 1951 legislature enacted Bill 237, S, establishing a retirement plan. The battle which spanned more than three decades was finally over.

Court reorganization was one of the key objectives announced by President LaFrance in 1955. A plethora of plans and ideas was being studied intently by the Judicial Council throughout 1956, with the result being introduction of the Council's proposal in the 1957 legislature. The plan was rejected and re-referred to the Council for further study. A re-drafted proposal was ready for the 1959 legislature. The details were printed in the December 1958 Bar Bulletin, and the idea gained widespread support. A new and powerful ally came forward in Governor Gaylord Nelson, himself a lawyer, on Jan. 22, 1959, when in his message to the legislature he said:

"For most of this century, beginning with the appointment by the legislature of the Winslow Committee in 1913, Wisconsin legislators have been periodically concerned with the problem of reorganization of our courts. At present, we have no state-wide court system; and the quality of judicial service available, particularly for small civil actions, traffic violations and minor crimes, varies greatly from county to county. But justice is a matter of state-wide concern; and all of our citizens, wherever they may be in the state, are entitled to adequate court service. Under legislative mandate, the Wisconsin Judicial Council has prepared a plan for court reorganization which has the approval in principle of the boards of circuit judges, county judges and juvenile court judges and a committee of the board of criminal court judges. As a senator, I supported the earlier Judicial Council plan for court reorganization wholeheartedly. I strongly recommend the present proposal to you for your favorable consideration. Modernization of the Wisconsin court system is long overdue."

This milestone proposal was adopted by enactment of Chapter 315, Laws of 1959, reorganizing the Wisconsin Courts into an integrated system, effective January 1962. The act set up the basic structure of a new court system, the principal features of which were:

1. It reorganized the courts below the circuit level into a single court system. All present municipal, superior, district, civil, children's, etc. courts were abolished and replaced by branches of the new county court. This county court had exclusive jurisdiction over probate, juvenile and adoption matters and concurrent jurisdiction with the circuit court over all criminal matters, except treason, paternity actions, actions for damages in which \$25,000 or less is demanded and all other civil matters without limitation as to amount or value involved.

2. It provided a means of administration for the court system by providing that the chief justice of the Supreme Court may request circuit and county judges to serve

temporarily in either the circuit or county court to assist a judge whose calendar is congested, to act for a judge who is disqualified or unable to act, or to hold court where a vacancy in the office of judge occurs or the judge is on vacation. It also established an administrative committee for the court system composed of the chief justice, a circuit judge designated by the board of circuit judges and a county judge designated by the board of county judges.

3. It took from the justice of the peace, who was on a fee basis, those matters about which there has been most complaints. Criminal jurisdiction was limited to battery and disorderly conduct; no jurisdiction over ordinance violations or over unlawful detainer, garnishment or attachment. The work of the justices of the peace to be handled by the new county courts held at any city or village in the county where the judge or judges find adequate facilities provided and sufficient business to warrant holding court. Any city or village willing to pay a justice of the peace a salary, might provide for a municipal justice with the jurisdiction of a police justice.

Thus again the organized Bar proved its worth and muscle in procuring enactment of a much-needed and sensible reorganization bill.

Also effective on Jan. 1, 1962, was the appointment of Retired Chief Justice John Martin as the first Court Administrator, a position established under a Bar-sponsored bill.

In August 1958, President Goldberg proposed that the Bar ask the legislature to provide a law clerk for each justice. A bill was drafted, enacted, and in 1962 the clerks were 'on board.'

In January 1961, President Callahan reported that at the request of the Supreme Court, a special liaison committee consisting of the president, the immediate past president, the president-elect and executive director, would meet from time to time with the Supreme Court in an effort to bring to the attention of the court criticism, complaints and suggestions from the Bar concerning changes in rules and the administration of justice. He further reported that the Supreme Court suggested that this same committee meet with a committee of the Board of Circuit Judges for the same purpose. The initial meeting of the committee was held on Jan. 20.

In following years, similar meetings have been held sporadically, as need arose. These sessions were informal and resulted in frequent and useful suggestions being exchanged.

Periodically from the early 1950's the "Missouri Plan" of judicial selection was proposed by advocates of reform in the selection of judges. Pushed largely by the American Judicature Society, the plan would provide for a panel to screen and recommend appointments to fill vacancies, and that when sitting judges ran for re-election they would 'run on their record,' but unopposed, the question being only "Shall Judge ____ be retained?" No effective or substantial

support developed, and political opposition over loss of judicial appointments split both the Bar and the press. The suggestion never prospered.

In 1962 the State Bar commenced holding impressive ceremonies in the Supreme Court when a new justice was sworn in. The affair for inducting Justice Broadfoot on Jan. 2 brought out an overflowing courtroom, leading Broadfoot to say that the State Bar had made a "production" out of the oath taking ceremony, but that he enjoyed it because "We all like honey better than vinegar."

A detailed inventory and appraisal of changes and improvements in the Wisconsin judicial system between 1948 and 1962 was published in the February 1963 Bar Bulletin. The results were surprisingly satisfying. Quoting therefrom:

"At the end of World War II, Wisconsin had an inadequate judicial system. There was a hodge-podge of courts at various levels, courts were under-manned, judges were under-paid and not subject to a state retirement system. The increases in population and business activities exerted much pressure on our court system. It was easily apparent that by all reasonable standards numerous improvements were needed. Extensive judicial reform by reorganizing the court system had been talked about as early as 1915, with nothing effective accomplished.

"With the reorganization and reactivation of the Bar of Wisconsin in 1948, the local bar associations, the state bar organization, the judges themselves, the public and the legislature all focused their attention on our court system and on the changes necessary to improve it. As a result, a number of significant changes occurred, summarized in the following paragraphs. These are not listed either in order of occurrence or importance. They all contributed materially to the picture in Wisconsin."

- The Judicial Council was organized in 1951.
- Substantial pay raises for judges had been obtained, \$17,500 for Supreme Court and \$15,000 for Circuit Judges.
- A constitutional amendment requiring retirement at 70 passed in 1955.
- A system of reserve judges was established.
- In 1955 the Constitution was amended to require that judges be lawyers.
- A judicial retirement plan was created in 1951.
- On Jan. 1, 1962, a far-reaching court reorganization was effective.
- Supreme Court clerks were provided in 1963.
- A Constitutional amendment in 1953 provided for election for a full term after appointment.
- Civil and Criminal Jury Instruction handbooks were issued.
- A Court Administrator began his work in January 1962.
- Numerous new courts were added.

- Pre-trial practice methods and procedures were improved.
- The Supreme Court showed increased willingness to exercise its inherent rule making power.
- The court evidenced a greater willingness to exercise supervisory power over the other courts in Wisconsin.
- The State Bar was integrated in 1956, as a quasi-state agency, an arm of the Supreme Court.

While much remained to be done, a lot had indeed been accomplished to modernize the court system and improve its efficiency.

A minor crisis over policy on Federal judicial appointments arose in 1963. The President of the United States nominated for Federal Judge in the Western District of Wisconsin a lawyer from the Eastern District. This outraged many loyal Democrats in the Western District who were upset over both the principle involved and the qualifications of the nominee. It turned into a genuine "hot potato" in the U.S. Senate, where Chairman Stennis of the Judiciary Committee was upset over the nomination. Following a telephone call from the Senator to State Bar headquarters, imploring the bar to offer some expression of opinion by Wisconsin lawyers, the Executive Committee and Board of Governors approved the taking of the first state-wide judicial poll of lawyers in the history of the State Bar. This was challenged in the Wisconsin Supreme Court, but was upheld by the Court as a proper function of the State Bar. (Axel v. State Bar, 21 Wis. (2d) 661.) The court said that the polling of its members on such a question was not a prohibited activity, and in fact that it is considered proper, and that it is the duty of the Bar to protest the appointment of those it considers unsuitable for the bench. The poll held the nominee not to be qualified, and the nomination was withdrawn. Judge Doyle was thereafter nominated and confirmed. Contemporaries concede that during the months he served, Judge Robinovitz performed satisfactorily.

At the state level, some governors welcomed the assistance of the Bar in proposing judicial appointee panels, but most did not. Governor Knowles, himself a fine trial lawyer, gave great weight to Bar Association recommendations on judicial appointments, as did Governors Kohler and Thomson. Governor John Reynolds usually submitted the name of a prospective appointee to the bar and asked whether there were reasons why the candidate should not be appointed. It seems worthwhile to relate two events in which the writer personally participated.

In August 1951, there was a vacancy on the Supreme Court. Governor Kohler requested that the Bar submit to him a list of names of qualified persons. The president and the committee chairman called on the governor and presented a list of five names of eminently qualified lawyers, listed alphabetically. The governor perused the

list. The first name was that of George Currie of Sheboygan. The governor said: "George Currie is my personal lawyer. You don't think for a minute that he would accept the appointment, do you?" The committee chairman replied that the committee didn't know, as it had not asked those listed if they would accept, but that they had tried to comply with the request by submitting a highly qualified list. The governor said, "Well, it won't take long to find out." With that, he placed a call to Currie and within moments was delightedly surprised to learn that Currie would indeed accept. The appointment followed quickly.

In mid-1958 there was again an appointment to be made. Governor Vernon Thomson delayed for what seemed an over-long time. The writer was walking through the second floor East Wing corridor late one afternoon when he met Peter Pappas, the governor's legal counsel. I said, "Pete, what's holding up the Supreme Court appointment?" Pete replied, "Vern can't find a qualified candidate who will accept." I said that if I were governor, I'd appoint Judge Orton in a minute. Pete responded that the Governor would dearly like to appoint Orton, but that this was a "Milwaukee vacancy" and the new justice had to be from that city. I then said, "Why not appoint Harold Hallows?" Pete responded, "Do you think he would accept?" I said, "Why doesn't Vern call him and find out?" Pete said that the Governor was 'gun-shy,' having been turned down by a couple of people. Pete then said, "Phil, why don't you call him?" I agreed and returned to the bar office and immediately called Hallows, who I knew well as a past Association president and prominent Milwaukee lawyer. His response was, "I'm flattered, but simply cannot accept. Tell the Governor 'Thanks.'" I immediately called Pappas and relayed the message. About two hours later I was at home and the phone rang. It was Hallows. He said, "Mary (his wife) says I talk too fast. Is the job still open?" I told him that I had told the Governor's office that he wasn't interested, that it was too late to call anyone that day, but that I would do so first thing in the morning. I called Pappas about 9:00 a.m. and told him that Hallows had changed his mind and would accept the appointment if offered. Pappas thanked me, and within a day or two the appointment was announced.

These episodes demonstrate how little, unpredictable events can change the course of history. Each of these appointees went on to serve with distinction as Chief Justice. Both had been loyal and hard-working bar members, and proved to be true "friends at court."

By 1971, the courts were operating smoothly, albeit with an increasing volume of work and an accumulating burden of appeals. In April Chief Justice Hallows made a strong argument in the Bar Bulletin for establishment of an intermediate appellate court, designed to relieve the Supreme Court.

Other needs for modernization of the courts were also

being voiced. The State Bar worked closely with the legislature and by the spring election in 1977, the voters were able to go to the polls to decide upon four questions encompassing a number of amendments to the Wisconsin Constitution to modernize the court system. There were four principal amendments, which constituted the first fundamental revision updating that part of the constitution since Wisconsin became a state in 1848. They would: (1) provide for a unified state court system under the administrative authority of the Supreme Court and the Chief Justice, and legislative authority to establish a single-level trial court; (2) create a court of appeals to provide a prompt, convenient and less expensive appeal from the trial courts; (3) improve the court system's disciplinary authority over judges; and (4) permit the legislature to establish a mandatory retirement age over 70 for judges.

The voters approved on April 5, 1977, and soon thereafter the legislature enacted Chap. 187, Laws of 1977, implementing the many changes. One highly important change enabled all justices to receive pay raises whenever the legislature authorized one, upon the swearing in of the next justice. In all of these, the State Bar spent much time and effort in persuading the legislature and the voters to obtain approval.

Merit selection of judges continued to remain a light in the eyes of the sincere and long-winded reformers. In 1978 the committee on Administration of Justice and the Judiciary commenced working on a plan for merit selection of judges. In March 1981, the Board of Governors approved of the committee's proposals. It was introduced in the legislature as Assembly Joint Resolution 106, and adversely disposed of. It was reintroduced in the next session, where it met a similar fate. The merit selection plan consisted of two parts: (1) merit selection to a fill judicial vacancy and (2) retention of judges so chosen. Where a judicial vacancy occurred, a merit selection committee would nominate two to five names, from which the governor would appoint one candidate. A judge so appointed would run for a full term at the April election after he or she has been in office for two years.

The plan is still alive in the minds of many. As a famous jurist once said, "Court reform is no task for the short-winded." No doubt it will be heard from again. But in Wisconsin's political climate, absent any crisis or scandal in the judiciary, the odds are that it will continue to meet legislative opposition, as well as luke-warm support from a divided membership.

For the past six decades, ever since the court began exercising its rule-making power and the legislature began establishing commissions which opened new fields of administrative law, both the court and the Bar have periodically had to do battle with the legislature whenever it sought to invade the court's domain. Most legislators have never understood the separation of powers under the constitution, or the inherent power of the court to regulate

pleading, practice and procedure, as well as to control the admission, discipline and conduct of lawyers. On this, the court and the Bar have stood solidly together, and successfully resisted all encroachment.

The close and essential relationship and cooperation between bench and bar continues in Wisconsin. Sweeping and fruitful changes have been brought about by Bar effort, but social pressures are bringing burgeoning litigation and unending problems to both the courts and the lawyers. With little doubt, the Bar will remain instrumental in finding and achieving the necessary changes.

NOTE: It is impossible in the space available to do more than skim the surface of judicial history since 1900. The writer's plea is that a fully researched history of the courts be written, carrying on from the work of Winslow's "The History of a Great Court." Momentous changes have occurred and they should be fully documented and preserved for posterity. That is beyond the scope of this history.

Chapter Twenty-One

Legislative Involvement

From day one of its existence the bar association has lived with the fact that almost never can a group of lawyers agree 100% for or against any proposition. More than other associations, a bar association is composed of strong-minded, articulate, perceptive and often opinionated or stubborn individuals who are trained to advocate causes. Even at its organizational meeting the association failed to act to make nominations to fill two judgeships, partly because of inability to agree on candidates but also because some felt that it was not the association's business to be involved.

This dichotomy continues to some degree today, although by the mid-1950's a working rule on legislative positions evolved. But as early as the annual meeting held in 1881, President Moses Strong sought to allay some fears, saying: "Apprehensions, if they exist, that the Association may by any possibility be partisan in its purpose or action, are unfounded and unjust and ought to be dismissed." While that statement referred mainly to political positions, it applied equally to the consideration of legislation.

Exactly how the association was to express its views to the legislature or the public on any matter was early on a subject of debate. Could or should the Board or Executive Committee speak for the bar? Ought the entire membership be polled to determine its position? Although frequently advanced, that suggestion was so expensive, slow and cumbersome as to be unworkable, at least for all but momentous issues.

At the 1905 annual meeting, while debating whether the association should take a position on legislation proposing that less than a unanimous jury verdict be accepted in certain cases, the issue was clearly put by a member as follows:

"It occurs to me in connection with this resolution, that its adoption by this Association, which is by no means comprehensive of all the bar of the state, would not be highly significant. Would not more light be thrown on the question, if the Executive Committee gathered a consensus of the opinion of the entire bar? Such an expression of opinion, representing and expressing the voice of all the lawyers of the state, roughly speaking, would be really helpful to the judiciary committees of the legislature, and I apprehend that this Association could render by this humble course, more efficient aid in the framing of salutary laws, than by assuming itself to express the views of a body whereof we are probably a distinct minority."

Action was taken at the 1914 annual meeting to establish a committee on Amendment of the Law to draft proposed laws to be submitted to the Executive Committee for approval before introduction in the legislature. But the

fledgling association was not in a position to take an active role in proposing legislation, and most matters of interest were the work of individual legislators, many of whom were lawyers.

The association issued its first legislative bulletin early in 1927, consisting of seven pages sent to all members. There were two follow-up issues later in the year.

Far reaching measures of law reform were before the legislature in the 1930's and 1940's. Except for the measures proposing integration of the bar, most of the bar's activity was in reacting to proposals introduced by others, such as those involving automobile insurance, trial practice, the special verdict, and in 1935, a bill to permit notaries public to draw deeds and wills.

In 1947, the legislature created the Legislative Council of 12 members, which was to act as a continuing committee of the legislature to replace the numerous interim committees used previously. Attorney Philip S. Habermann was chosen as the Council's Executive Secretary, which post he held until he moved to the bar association a year later. The contacts Habermann made with the legislators during this period served the bar in good stead for years to follow.

When the Association was reorganized and opened its staffed office in 1948, for the first time a full-time lobbyist was available in the bar's new executive secretary. The association commenced a regular legislative bulletin and by August, 1949 reported with pride that it had sponsored three measures which had been enacted. They were Chapter 467, enacted after a bitter lobbying effort, to increase from 10% to 20% the attorney fees allowed in workmen's compensation cases; Chapter 212 providing a uniform small claims court act; and Chapter 336, authorizing transfer of cases from justice court to another court on request. One measure vigorously opposed by the association to permit notaries to draft conveyances was defeated on the first roll call, attesting to the increased legislative clout of the bar.

The bar charted a new course in 1949 when it launched into a far reaching revision of the law of corporations. Our corporation statutes were sadly outdated. The American Bar Association had recently issued a Model Code, and a special committee on Corporate Law Revision was created by the Association. The bar then "engineered" an invitation to prepare this revision by having Senator Bubolz introduce a Joint Resolution calling for the Legislative Council to study the corporate code, and inviting the bar committee to do the work. The committee presented its draft to the Council, and the revised code was introduced and passed in the 1951 session. That was the first occasion in which the association produced a substantial revision of

a chapter of the statutes.

Following integration of the bar in 1956, it quickly became apparent that there was need for a clear plan under which the State Bar could take positions on legislation. Because of split opinions, the bar had been unable to appear before the legislature on the court reorganization bill. Past President La France headed a committee to draft a plan, which was enacted by the Board on June 12, 1957.

The plan set forth a new, definitive policy under which the Board of Governors (or Executive Committee) determined bar policy, and whether to support or oppose legislation. The procedure adopted spelled out the policy of "substantial unanimity" as the criteria for supporting or opposing a measure, a policy which over the years proved workable. The detailed provisions stated:

1. The State Bar will initiate legislation only on such matters as it believes to be of general professional interest. No legislation will be sponsored unless and until the Board is satisfied that the recommendation represents the consensus and the best composite judgement of the legal profession of this state, and that the proposed legislation is meritorious and in the public interest.

2. The determination of policy as to whether to support or oppose any specific legislation shall be made by the Board of Governors. Such opposition or support shall be expressed as the position of the Board of Governors.

3. Where it is obvious that the membership of the bar is of a substantially divided opinion, the Board of Governors shall take no definite position; but in any case, the Board may direct that its vote on any measure be reported to the Legislature as indicative of the diverse views of the members of the Board.

This action won express approval of the Supreme Court in its review of the operation of the State Bar in late 1958, the court stating, "At this point we wish to commend the Board of Governors for the adoption of the legislative procedure and working rules proposed by Alfred E. LaFrance's committee whereby the State Bar can fulfill its responsibility in legislative matters with fairness to all members —".

In October, 1963 the President reported that the Board had reviewed its policy of "substantial unanimity" adopted in 1957 and felt that it adequately conformed to the position taken in the case of Lathrop v. Donohue by the U.S. Supreme Court.

Following integration the membership grew quickly and problems of communication increased. There remained questions of legislative procedure, and in August, 1959 the President tried to clear the air, setting forth once again the adopted procedure:

"There seems to be considerable confusion in the minds of attorneys throughout the state as to who speaks for the State Bar of Wisconsin on legislative matters. In the first place, it should be made clear that the Bar takes no position on political matters. However, on non-political

matters that affect the administration of justice, or the practice of law, the Board of Governors, as the official body of the State Bar, takes a position. If the vote of the Board of Governors is substantially split, no position is taken for the State Bar; however, if the Board of Governors is substantially in favor of or against a particular piece of legislation, the State Bar either opposes or endorses that legislation by advising the appropriate legislative committee of the vote of the Board of Governors.

"Due to the press of time on certain matters, the board of Governors does not have time to act, and either the Executive Committee of the Board of Governors, the Legislative Committee, or an appropriate committee or section of the State Bar, takes a position. In all cases, it is made clear to the legislative group that this is not the position of the State Bar, but is the position of the Executive Committee, Committee, or section, as the case may be. It, of course, goes without saying, that any individual lawyer should take whatever position he or she wishes on any piece of legislation and that the action of the Board of Governors is in no way binding upon any individual lawyer."

By and large, this procedure worked. Indeed, without it the State Bar would have been hamstrung and ineffective. It was obviously impossible to get complete unanimity on anything, or to poll the members repeatedly.

During all of the time up to the early 1960's the Executive Director served as the bar's lobbyist. Initially the Attorney General advised him informally not to register as a lobbyist, but later this instruction was reversed and the Executive Director formally registered as the Association's legislative agent. As staff increased, much of the daily burden was switched to his assistant, who by 1974 was bearing the major burden of time in the legislative halls. Throughout this period, the State Bar issued regular legislative bulletins, arranged for introduction of bills authorized by the Board or the sections, scheduled appearances at committee hearings and in general handled the interminable and essential background work involved in successful lobbying. While the bar's legislative programs were highly successful in terms of numbers of sponsored bills that passed, the more important box score was in the almost total success in defeating detrimental legislation.

In 1965, the sensitive matter of who speaks for the bar was restated by the adoption of the following rule on February 17:

"No committee or section of the association shall publicly express any conclusion or opinion respecting any substantial issue of public policy without having procured previous authorization from either the Board of Governors or the Executive Committee of the association. Whenever any committee or section of the association expresses publicly any conclusion or opinion on matters other than substantial issues of public policy, such expression shall indicate that the conclusion or opinion is that of the section

or committee from which it emanates, rather than the conclusion or opinion of the State Bar."

At the same time the delicate problem of powers of the Executive Committee vs. the Board of Governors surfaced. The Rule was amended to require that minutes of the Executive Committee "shall be immediately distributed to the Board of Governors", and by adding a new rule reading:

"Section 4. Public Expressions. Unless otherwise ordered by the Board of Governors, the Executive Committee shall not express publicly any opinion on any matter including legislation of major public interest or concern or of major importance to the members of the association."

In the late 1960's many plans were proposed throughout the country, including Wisconsin, known as the Keeton-O'Connell type of "no-fault" automobile insurance. The State Bar opted to strongly support its own type of comparative negligence system and resisted the no-fault proposal. The Bar was ultimately successful in heading off a no-fault law, which eventually lost luster as the results from enacted plans came in, and we improved our comparative negligence laws.

The 1969 Wisconsin Legislature was the most productive in history from the bar's standpoint. Five major revision bills produced by the State Bar's law revision program (see Research Program, following) over the past eight years were enacted, as follows:

A revision of the law of trusts - Chap. 231 Stats.

A revision of the law of landlord-tenant - Chap. 235, Stats.

A revision of the laws of conveyancing, mortgages, and land contracts - Chap. 235, Stats.

A revision of the law of interests in property - Chap. 230, Stats.

An entirely new Probate Code

The above revision bills, together with the revision of chapter 232 by the 1967 legislature, represented the most comprehensive revision and modernization of a major portion of our laws and procedures ever brought about, all through the efforts of the State Bar. The State Bar was fortunate to have bi-partisan support for all of its legislation. The conscientious work and support of lawyer-legislators contributed greatly to the success of the program.

Another comprehensive revision bill, sponsored by the Judicial Council with strong bar input, made an extensive revision of the criminal procedure law in 1970.

A wave of anti-lawyer legislation crested in 1971, but the bar fared far better than anyone could have reasonably predicted. The closing gavel of the session sounded the death knell for an unprecedented confluence of anti-lawyer proposals, including those seeking to:

- 1) Eliminate professional education and knowledge prerequisites to Bar admissions.
- 2) Absolutely prohibit all legislators from practicing law.

- 3) Provide for special municipal taxes on lawyers, only.
- 4) Require that the State Bar bear all expenses of disciplinary proceedings by the Bar Commissioners—even the Referee and Reporter.
- 5) Place Bar discipline in the hands of a commission composed solely of laymen.
- 6) Absolutely prohibit the Bar from issuing a minimum fee schedule.

The fact that not one of these bills, or others of that ilk, were passed warranted a healthy sigh of relief, but it afforded no basis for either exultation or relaxation. The mere fact that these measures were introduced by a variety of politicians with attendant fanfare in the press had to be deeply disturbing. Furthermore, it was acknowledged that some were merely avoided, not defeated.

The small clique of lawyer-hating legislators tried again in 1977, when the legislature attempted to amend the constitution to place control of the lawyers under the legislature instead of the Supreme Court. Again, the bar prevailed, but the attacks on the bar and the attendant bad publicity sorely taxed the lawyers' patience.

In June, 1978 the State Bar followed what others were doing in this state and nationally and established a political action committee known as LAWPAC. This committee was to solicit funds to be available to support selected candidates at elections, but without any State Bar funds being used. The LAWPAC continued with very meager success until it was abolished in 1982 under a Supreme Court edict.

A new and crucial legislative issue surfaced in 1979, both nationally and in Wisconsin in the form of legislative attempts to reform the products liability laws. This issue has not been resolved. Included were statute of limitation questions. Many segments of the bar were concerned, and a special committee was appointed to review the diverse interests and to seek to formulate a proposal for Board consideration.

In 1979 the State Bar necessarily became involved in one of the most far reaching and debatable proposals ever presented, that to convert Wisconsin to a community property state. "Marital Property", as the proponents called it, was perceived to reflect the equal status of men and women, particularly with respect to property acquired during marriage. The bar's involvement became deep and extensive, and eventually the proponents passed a sweeping revision effective January 1, 1986. The ramifications of this legislation and the protracted battle on its enactment cannot be satisfactorily covered herein. The eventual results of the new law will clearly not be assessable for a decade. Meanwhile, the bar's overwhelming responsibility to re-educate its members to the vast changes was undertaken with diligence and fervor by ATS-CLE.

Periodically the state, in its search for revenue, sought

to impose a sales tax on legal fees. When that issue popped up in 1983, the bar's response was to fight the imposition en toto, and not to compromise. With widespread help, the matter was defeated.

The bar's constant troubles with a hostile legislature led the President in 1983 to declare that "Wisconsin lawyers have no clout". The statewide bar membership of less than 11,000 wasn't enough to get the politician's attention. Saying that the law is the lawyer's business, whether legislative or judicial in the making, the President urged that the Wisconsin lawyers and the profession as a whole, who carry great respect in matters of public interest, need to marshal this strength to have its position respected by the legislature. He advocated better organization under a Legislative Action Program to organize all lawyers on legislative matters.

Meanwhile, beginning in 1975, the State Bar added a full time staff member whose duties involved being legislative counsel. This person was in direct charge of all lobbying, under supervision of the Executive Director and the Board. The deep involvement of the bar in the Marital Property bills led the proponents, who were mostly lawyers, to vigorously contest the fact that the State Bar, to which they must contribute dues, was spending money in opposition to their wishes. This resulted in a successful petition to the Supreme Court to enable members who oppose the bar's position or activity on legislation to deduct from their annual dues (effective 1986) an allocable portion of dues money expended on legislation. While this may offer a moral victory to those opposed to the State Bar's legislative programs, it apparently will not seriously impede the bar's efforts.

Bar Research Program

By 1961, it was apparent that vast portions of our statutes relating to real property and estates were woefully outdated, having survived almost unchanged for 112 year since Wisconsin became a state. It was equally obvious that more than a series of amendments was required, and that a thorough going overhaul was necessary. It was also conceded that the legislature had no interest or ability to tackle the job, and that if it was to be done it had to be undertaken by the bar. This would be no token work and would require time, money and staffing. The bar was ready to assume the task.

In September 1961 the Board of Governors authorized a comprehensive research project to revise and codify the real property statutes. Professor Richard Effland of the University of Wisconsin Law School was induced to take a year's leave to be research director. The Board appropriated an initial \$30,000 and set the scope of the project to include chapter 235 of the Statutes on conveyancing, together with Chapters 233, 237 and 238 on dower, descent and wills, plus chapter 234 on landlord-tenant law. This

was a huge undertaking, one that would take more than six years to complete under the guidance of the new committee on Research Planning. Also to serve as researchers were Professor James MacDonald and Attorney Glenn Coates. The bar bylaws were revised in late 1961 to formalize the bar's research services and for its supervision.

Another significant change in the law was underway. A new Uniform Commercial code was being promulgated nationally, and the bar requested the Legislative Council to introduce it at the 1963 session of the legislature. It took several years to gain enactment of this sweeping change in commercial law, but it was done.

The modernization of the probate laws was undertaken by Professor McDonald commencing in the fall of 1965. The resulting enactment in 1969 virtually revolutionized probate practice and provided many simplified procedures.

By February 1966, the whole panoply of research was underway.

The members were kept fully advised by a lengthy and detailed summary of the projects published in the BAR BULLETIN in February. These projects involved the tremendous manpower of the entire Real Property, Probate and Trust Law Section, the membership of which served to evaluate the drafts and work on perfecting them.

All of this research and the necessary study committees and reporters cost money, but the State Bar willingly footed the bill which eventually passed the \$100,000 mark. In addition, the bar appropriated \$5,000 to the Legislative Council to aid in its codification of the insurance laws.

In 1979, in a surprise move, the legislature attempted to eliminate funding for the Judicial Council. The bar's efforts were instrumental in defeating the attempt.

Once the major research projects were adopted in 1969, the bar continued to be involved, though at a lesser pace. A shift of attention to the procedural rules was suggested, including updating the "long arm" statute, and the coordination of the rules on venue, pleading, discovery and the like. Further revisions of the corporate code, criminal law practice and many further revisions of the probate laws fully occupied the section for the next decade. A far reaching revision of the law of divorce also required much attention.

All in all, the bar's legislative activities and relationships over the three and a half decades following creation of the new association in 1948 were productive and in the interest of the public as well as of the bar. A greater assumption of rule making power by the Supreme Court took many of the changes in practice and procedure out of legislative channels. Neither the Legislative Council nor the Judicial Council, however, could propose all of the essential changes. The bar filled this breach with considerable success. As a result, instead of having old laws patched up almost beyond recognition, many entire sections have been completely modernized.

In all of its legislative work, the bar's program ought to be evaluated not solely by its success in sponsoring bills, but by its contribution to improve proposals made by others and by the number of clearly bad bill that were defeated. Such opposition often resulted in the bar being accused of selfish interests or as being obstructive. A careful analysis shows that this is untrue.

Always difficult, and perhaps insoluble, is the matter of what is a "substantial issue of public policy" in which the bar should become involved. The decisions have to be made on a case-by-case basis and judged by the impact on the practice of law.

Chapter Twenty-Two

Our National Reputation for Innovation

In-no-vate vb 1: to introduce as or if new
2: to effect a change: to make changes

With a few notable exceptions, it is literally true that there is nothing new under the bar association sun. Ideas and devices and programs undertaken as "new" by bar associations almost always have been tried elsewhere and succeeded or failed as the case may be. Yet Wisconsin, more than most bar associations, has a long record of innovation and experimentation that pioneered in key area. This reflects with luster on our record of constantly seeking new and better ways of serving the public and the needs of our members.

Some innovations come about slowly. Others spring forth overnight. An example of the former is the proposal made in June, 1936, suggested as an Experienced Lawyer Service, to help younger members needing counsel by referring them to a member of a volunteer panel of experienced lawyers. This did not come about until 1983, when the Lawyer to Lawyer program was launched by the State Bar, established to fulfill almost exactly the original idea.

Two entirely new bar programs were conceived and successfully launched by the Wisconsin bar, both of which brought national recognition. The first was the pioneering of group liability or malpractice insurance, and the second, the creation of the Judicare program.

In the early 1950's few lawyers carried policies providing malpractice or errors and omissions coverage. Claims were few and loss ratios negligible. Most such insurance was purchased through the mail from a Philadelphia agency or from agents of a St. Paul insurer. The bar executive perceived a growing demand for such coverage, and explored with Employers Mutuals the possibilities of their writing a group policy of professional liability insurance for bar members, at a lesser rate than that otherwise available. The deal was almost finalized when the company's general counsel died, and his successor was hostile to any such plan. The bar then turned to a Chicago based company, CNA, which undertook the idea and issued policies to Wisconsin bar members at an advantageous group rate. This was the first such group in the country, but within several years CNA and others were writing group plans for bar associations nationwide. An unfortunate sharp escalation of claims commencing in the early 1960's led to steep increases in rates, and many insurers withdrew from the field. High costs and the difficulty of obtaining coverage led the State Bar to further experiment in 1981, following several years of changing carriers, by establishing an entirely new plan for providing coverage, under a Lloyds

of London program, which held great promise. However, the bad experience record placed this plan, too, in jeopardy. Faced with loss of coverage, or prohibitive rates, the State Bar in 1986 took steps to form its own insurance company.

The second significant innovation was the conception and launching of the JUDICARE program in 1966. Prior to that time legal assistance to the poor was rendered by four local legal aid societies and by pro bono work of lawyers in the rest of the state, usually through a local bar legal aid committee. The service was at best insufficient and underfunded.

In 1955, President Lyndon Johnson launched the War on Poverty program, funded with federal money. A part of this program was the serving of the civil legal needs of the poor. In August of 1965 a national conference of bar leaders was called in Washington to discuss the means of rendering legal assistance. The bar officials were told to provide such service, with federal assistance, or the government would step in to provide it. Those present were challenged to be innovative and to move quickly.

Immediately upon returning home from the conference, the State Bar formulated a project that was completely new and original, for which the Executive Director coined the name Judicare. On September 17, 1965, the Board of Governors considered this plan which formulated a comprehensive program of legal assistance in Wisconsin and directed that a project application be made to the Office of Equal Opportunity for funding. The Board said:

"If the underprivileged of this state are to be adequately served, and promptly, it is suggested that drastic, novel and new approach be used."

The plan envisioned setting up statewide, except for Milwaukee County which was to be served by CAP neighborhood law offices, a system providing free legal service to underprivileged persons on a basis whereby they would have a choice of their lawyer. This would carefully preserve the traditional lawyer-client relationship and allow prompt service with practically no overhead. Eligible persons were to be given an entitlement card, which could be presented to a lawyer when service was needed. The lawyer would provide the service and bill the Judicare office for payment at 80% of normal fees.

The project application was submitted promptly. It contemplated service throughout the state, excepting Milwaukee, with an administrator and office in Madison. Immediately OEO trimmed the project to cover only 26 counties in northern Wisconsin, and reduced the grant amount. Following extensive negotiations, on May 31, 1966 the Judicare program was funded by OEO with a grant

of \$241,000.

The office was opened, a staff hired and Judicare became operational almost overnight, with resounding ease and success. By December the Executive Director reported to the Board that Judicare was operating without any difficulty, and that OEO had authorized extension of services to the inmates of state penal institutions for civil matters only.

To adequately tell the tale of Judicare's success, and of the obstacles and harassments thrown at it by the federal office would require writing a book. Suffice it to say, the federal authorities in OEO were biased against Judicare, they much preferring the staffed law office pattern suitable only for large cities. The simplicity and effectiveness of Judicare drew national attention and dozens of bar associations submitted applications for similar programs. Meanwhile, OEO adamantly refused to extend Judicare to serve additional counties or to increase available funds. As a result, services had to be curtailed. Nevertheless, the program struggled on. Eventually OEO forced the office to move to Wausau. At this point, the Board of Governors "spun off" Judicare to a newly organized non-profit corporation, with its own board of 15 members, eight of whom were non-lawyers.

Judicare continued. The original director left, being unwilling to move to Wausau. The new corporation took over. Federal funding was till grossly inadequate. New counties were added, and extensive services were rendered to the Indian groups in the area. In 1974, OEO turned over administration of legal services to a new corporation authorized by Congress, the Legal Services Corporation, which has funded and monitored the program to date. At the same time, the remainder of the state was placed under three additional LSC funded offices. This situation remains to date. However, the whole program of legal services again fell under attack in 1986 due to the Gramm-Rudman budget-cutting proposals, and Judicare funds were further curtailed.

Thus we have come full-circle, with the problem of providing civil legal assistance to the poor again resting largely on the bar's doorstep. Meanwhile, the former legal aid groups had been disbanded. The bar could look only to a new system, perhaps funded by the IOLTA money soon to become available.

Thus two decades of a highly successful program which brought national attention and acclaim to the Wisconsin bar, barely survives.

Another first for Wisconsin was the merger in 1980 of the State Bar's Lawyer Referral program and the Bar Foundation's Lawyer's Hotline, into a new Lawyer Referral and Information Service. LRIS, as the program is known, was an immediate success, based on the volume of calls received. As the service grew, the State Bar devised a new custom-designed computer program to handle LRIS records, this being the first in the nation. It allows the staff to match

up a caller with an attorney in the caller's area who has registered for the category of law involved.

Wisconsin was the first state bar to establish a formal liaison committee of lawyers in the Washington, D.C. area who are licensed in Wisconsin. The committee acts as a clearing house for information and directions for our state lawyers who have business in Washington. The committee (now a Division) has operated successfully for more than 20 years, and has been increasingly active.

So as not to be tedious, the following brief summaries of new or ideas adapted to Wisconsin are listed, but not in order of importance or time:

- A placement service was inaugurated in 1936 for all newly admitted lawyers, serviced by the secretary. This was expanded greatly in the early 1960's to emphasize placement of lawyers in practice.
- Wisconsin took an early lead in fee arbitration panels in the early 1960's. This has developed into an important service to both the public and the members.
- Wisconsin was among the earliest bars to promote improvement of the economic position of its lawyers. By pushing improved record keeping and practice methods, plus a desk-book fee schedule, the income of the lawyers increased substantially.
- A very useful practice tool, the Revised Real Estate Standards, was issued in 1951, up-dating the original 1946 standards.
- In the early 1950's, the bar pushed hard for inclusion of its members under Social Security, and for adoption of the Keogh retirement plan.
- Wisconsin pioneered in law programs for high school students, both through lectures and mock trials.
- The association pioneered Fair Trial-Free Press rapport with the state media, eventually issuing guidelines.
- During the 1970's state legislatures and bar associations through-out the country were frantically debating and legislating the so-called no-fault automobile insurance plans. This idea was never adopted in Wisconsin, but as early as 1931 the Wisconsin State Bar Association was earnestly debating the questions of compulsory automobile insurance and a plan to give injured persons compensation without fault under a fixed schedule of benefits administered by a commission. The annual meeting in June, 1932 laid over the recommendations of its special committee on Automobile Accidents, which had rejected both ideas. Meanwhile, in 1931 the legislature, with out State Bar Association urging or support,

passed the new comparative negligence law.

Thus Wisconsin was at the forefront in debating and enacting the earliest of such ideas.

- In 1971, the bar established an Information Center, as an adjunct to the grievance program, to provide a vehicle for the citizens of Wisconsin, the news media, and other interested groups to obtain information on the law, lawyers, judges, and the legal system. The center did not operate as a referral system nor did it answer specific legal questions.
- In 1971, Wisconsin was an early state in establishing enabling legislation and rules so that lawyers could participate in group legal service plans. By 1973, 38 group legal service plans had registered.
- In 1974, the bar adopted minimum abstracting standards and recommended that all local bar associations adopt them.
- In a genuine "first", in 1974 the Board of Governors scheduled a joint meeting with the governing board of the Law Society of Upper Canada, to be held in Toronto. An untimely airline strike forced postponement until 1975, but the joint session proved to be extremely worthwhile.
- In April, 1978, the Board proposed to the Supreme Court that all practicing lawyers must carry professional liability insurance. The Court stayed action, appointed a study committee to report in 1979, and eventually rejected the idea.
- In April, 1978 the new State Bar Lawyer referral plan made 77 referrals. From March to October, the total was 749 referrals.
- In 1979, the State Bar again commenced work on a client's security fund, perhaps spurred on by the fact that the Supreme Court also had a committee working on the idea. The plan was soon perfected and put into effect by the Court.
- In April, 1982, the Board created a committee for Assistance to Lawyers, to provide, identify or coordinate assistance to lawyers who for any reason are incapacitated or otherwise unable to conduct their law practices properly.
- In 1983 the State Bar launched a new program, the Lawyer-to-Lawyer Directory, to encourage and facilitate appropriate lawyer-to-lawyer consultations, referrals and associations.
- In 1981-82-83, there was extensive use of the "bar caravan" idea, under which a team of bar officers and staff made numerous visits at local bar meetings. The idea was productive, and truly sampled the grass-roots needs and voices.
- The idea of utilizing interest on lawyer's trust accounts for legal assistance or other pro bono projects surfaced in 1976, with preliminary discussions with the Wisconsin Bankers Associa-

tion. Other states were rapidly adopting IOLTA plans, and a proposal was submitted to the Board in April, 1983. That plan was referred back for further study, but in 1985 was submitted to the Supreme Court, which adopted it effective January 1, 1987.

The above examples are only a partial listing of the many facets of activity in a very forward-looking and innovative bar association. They demonstrate clearly why Wisconsin has a national reputation for leading, rather than following, in programs of exceptional value to the public and to the members.

Harking back to the statement, "There is nothing new under the bar association sun," Wisconsin bar members are assured that the end is not in sight, and that a constant procession of new, innovative and useful programs will continue apace.

Chapter Twenty-Three

Publications

The 14,000 plus members of the State Bar who receive one of the better bar magazines as well as a monthly newsletter are likely to take them for granted. These publications evolved over a span of 60 years, and the "growing pains" were by no means trivial.

When the Association was formed in 1878, the practice among organized state bar associations was to publish a detailed annual volume of proceedings. It is indeed fortunate that this was done, for from 1878 to 1946 the bound volumes contain the principal record of the Association's activities available to historians.

A great deal of time and concern at each annual meeting between 1878 and 1914 was devoted to problems and costs of printing and distributing the annual proceedings. These bound volumes cost about \$1.00 each, and represented the major expenditure by the Association. Occasionally two years were combined in one volume. Since the Association held only a single annual session during the early years, the entire record of the Association's affairs was included. The reports contained: 1) a stenographic report of all meeting sessions; 2) Committee reports; 3) Membership lists (usually); 4) all speeches; 5) necrology; 6) lists of local bar officers, past state association presidents, and past meeting dates and places. Occasionally pictures were used, and the June, 1928 volume included a remarkable photograph of most of the surviving charter members on formation of the Association in 1878. The proceedings were mailed to all association members.

In his annual report in 1911, the president suggested that the Association should have a law journal. Nothing happened. The idea surfaced again in July, 1919, when the secretary suggested to the annual meeting that the Association ought to have a printed bulletin, issued two or three times a year. The matter was left up to the Executive Committee. Nothing happened.

In June, 1923, the Executive Committee suggested that the Association consider publishing a quarterly magazine, which would include the bar association proceedings plus other matters of interest to the members. Several thought it best to consider the feasibility of having a section in the Wisconsin Law Review devoted to the Association. The president appointed a committee to study the idea. Again, in 1924, another committee was appointed to study the idea of issuing a quarterly journal. This resulted in the Executive Committee being directed to arrange for a bar journal, but the committee's recommendation for a magazine was sidetracked by the Executive Committee in 1926, as "not advisable in face of the reduction in dues".

Although the Association had no staff or facilities of its own, the State Law Librarian had since 1920 served as

Secretary-treasurer and used his offices for bar work. Finally, in June of 1928, the Secretary reported that he would henceforth edit a new bulletin, and that he was seeking to make it self-sustaining from advertising revenue. Thus was launched the first issue of the magazine. It was a quarterly containing a potpourri of material, but did not replace the bound annual proceedings, which continued for another 18 years.

At about the same time, the secretary began keeping minutes of Executive Committee and Board meetings. These, together with the bulletins and the annual proceedings, furnish a detailed record of the crucial years of bar association growth and change.

From the beginning, the personal mention pages of the Bulletin proved popular. A clipping service was the main source of information, and the editor outdid all past efforts in the February, 1946 Personal Mention pages, there being 21 1/2 pages, mostly news about attorney war veterans returning to practice.

After the Association reorganized and opened a staffed office in 1948, budgetary problems caused by the high cost of printing bound annual proceedings led the board to vote that henceforth publication of the complete proceedings be terminated and that the reports on the annual business sessions, committees, and worthy papers be published in the BAR BULLETIN. Printing of the 1947-48 proceedings, which were already in type, was abandoned.

Three events of note occurred in 1949. First, the BAR BULLETIN was given a new and revised format, with the new Executive Secretary serving as editor. The restyled magazine contained a President's Page, Local Association News, Among the Judges, and of course Personal Mention. The February issue also reprinted the Canons of Ethics. So popular was the new Bar Bulletin that in 1952 it went to a bi-monthly basis.

Second, the first issues of the WISBAR Newsletter were mailed to all members quarterly. This newsletter continued on a sporadic basis until early 1970, when it was up-graded and issued regularly. It soon proved to be one of the most popular and useful of bar services.

Third, commencing in June, 1949, the bar office commenced sending a weekly legislative bulletin to 300 local bar officers and Association committee members. This was a powerful force in accomplishing a successful legislative program.

All of the three above mentioned publications continue today, but in vastly improved format and content.

Radio was still a prime choice for carrying a message to the public in the early 1950's. The Association purchased

a series of vignettes on records, each depicting a law problem and the answer, and designed to create confidence in lawyers. These were widely distributed to the radio stations about the state, in cooperation with local bar associations, and were modestly successful. The closing line credited the Association as the source of the program.

A unique service was started in 1953, which continues to date, when the Association began issuing its Supreme Court Calendar Service on a subscription basis. This publication filled a need for advance information of what the Supreme Court would be considering at each sitting of the Court. The SCCS was a brief summary of the issues of each case, listing date of argument and counsel. It was compiled by scanning all briefs submitted to the court in advance of argument, and was mailed to 300 subscribers the week before argument. It provided an easy and inexpensive means for the busy lawyer or law firm to keep current on what is being presented to the Court. In 1986, circulation was 250 copies.

In 1958, the rather stodgy format of the BAR BULLETIN was revised to include a picture on the cover, and to use color. An important innovation was commenced in the same year with extensive publication of checklists which could be removed as tear-sheets and permanently filed in a desk binder. These checklists proved to be highly popular, and were undoubtedly the forerunner of the excellent CLE publications now available. In 1986 ATS re-issued a new and expanded version of the checklists.

Commencing in 1975, the State Bar began publishing detailed digests of supreme court opinions. These were available sooner than in the advance sheets, and were edited by the retired Supreme Court Reporter, Arnold LeBell. Summaries of appellate court decisions followed in 1978.

As a result of severe budgetary problems, the format of the Bar Bulletin was drastically changed in January, 1977. This was done in order to continue the WISBAR Newsletter, the supreme court digest and the WISBAR legislative bulletin. The magazine was increased to a larger size and henceforth published monthly. The new, all-inclusive BAR BULLETIN offered many economies, and the combination of the several publications under one cover proved both practicable and popular with the members. Advertising revenue increased significantly.

In 1982 the Board of Governors approved a year's trial basis of printing again a newsletter separate from the magazine, on the basis that such publication be without any additional net expense to the association. This newsletter continues to date.

Printing and mailing costs have increased enormously in the past 20 years, as have advertising rates and income, and editorial expenses. The very modest six issues of the BAR BULLETIN in 1965 mailed to 7,700 persons, cost \$13,000 for printing and mailing, with \$10,636 in advertising revenue. The BULLETIN was mailed monthly in 1985

to 13,773 persons, at a cost of \$149,794 for printing and mailing, with \$105,000 in advertising revenue. Above costs do not include staff. One cannot compare either costs or quality, but the figures indicate how the publication of a bar association magazine has become in itself a major bar activity.

Chapter Twenty-Four

The Bar's Public Image

The art of public relations did not emerge until well into this century. Yet by word and deed, the bar was seeking to put its best face forward from the earliest days through public service. An early effort was the resolution adopted in June, 1918, that lawyers not charge for assistance to persons because of their being drafted into service.

What most lawyers felt was put into words by President M.B. Rosenberry on June 22, 1927, when the Justice said:

"We can do most to raise the standing of the bar in the minds of the general public by becoming better law teachers, better lawyers and better judges, we shall thereby become better citizens. When as individuals we are better trained, have a higher and clearer concept of our relations to society and work out the ideals of our profession in practice, the bar will rise accordingly in the estimation of the public."

Recognizing the dedication of the bar to public service, on December 12, 1930, Governor Kohler requested the Association to "act with the general committee which is functioning at the request of the Governor on the subject of unemployment".

The following June saw the Committee on Unemployment urge the Bar to "show great compassion and leniency to those who by reason of the depression can't meet their obligations, and to urge their clients to do likewise."

By 1940 the Bar had a public relations committee, which following the vogue of the times for all associations, urged the local bar associations to have speakers bureaus, and supplied a list of suggested subjects.

In June, 1946, the Association considered publishing a pamphlet on the importance of having wills drawn by lawyers. This was the first tentative step on a course that saw millions of public service leaflets printed and distributed. The committee followed through, and in 1946-7, the local bar associations were buying the will leaflet in quantity and distributing copies widely through the lawyer's offices.

The leaflet program prospered, and in early 1951 the Council appropriated \$1,000 for preparation of six additional leaflets. By April, 1952, the Executive Secretary reported that to date 423,000 leaflets had been printed and sold to lawyers. By June, 1953, over 700,000 leaflets had been sold, as well as hundreds of small display boxes with the label "HELP YOURSELF". This leaflet program proved to be highly popular with lawyers and clients alike, and the sale of the leaflets at cost enabled the plan to be self-supporting. The leaflet program has continued to date, with many millions of copies having been distributed, with new topics covered and innumerable revisions being made in

the contents.

A sense of pride in Bar membership led the Association to sell small gold lapel pins to its members in 1952. This was later revived with a more ornate pin or tie-tack, but the volume never justified the effort.

Radio was still a prime choice for carrying a message to the public in the early 1950's. The Association purchased a series of vignettes on records, each depicting a law problem and the answer, and designed to create confidence in lawyers. These were widely distributed to the radio stations about the state, in cooperation with local bar associations, and were modestly successful. The closing line credited the Association as the source of the program.

In November, 1954, the Association began editing and mailing to all state newspapers a weekly strip called "The Law and You". This was a soft-sell law column giving factual treatment to a number of interesting law subjects. It proved popular with the papers, and as many as 175 weeklies and 25 daily papers used the material. This column continued for many years, and the total column inches of published columns totaled in the many millions of inches. In September, 1964, nearly 200 Wisconsin newspapers were using the weekly news column from time to time. One column was published in more than 70 papers with a total circulation exceeding 300,000, with the result that the total column inches of that particular column totaled more than 45 miles in length.

Just prior to the Bar moving into its new headquarters building, in June, 1957 a part-time senior law student was hired as Public Relations Assistant on the staff. He was a truly gifted individual, who also had a journalism degree and six years experience on a newspaper staff. He was proving his worth when he met with a fatal accident the next summer. It was impossible to replace him.

Foremost among the public service efforts of the Bar was the rendering of free legal aid. From the earliest days, lawyers had always served the penurious clients without charge. As the population grew, so did the ranks of the poor and the need to serve those who couldn't pay a lawyer. As the local bar associations became more active, poor persons were usually referred by the bar president to a lawyer who would provide fee service.

The first State Bar Association Legal Aid committee was appointed in June, 1924. The Association also endorsed the idea advanced by the American Bar Association that a statutory change be sought to waive cost for indigent in court matters. This was soon accomplished by legislation.

The new committee was a very prestigious one, consisting of Justice M.B. Rosenberry, E. Ray Stevens, Roy

P. Wilcox and William Kaumheimer. The committee reported in June, 1925, reviewing in detail the development of legal aid throughout the country. It related that the Legal Aid Society in Milwaukee had been organized in 1916, and had assisted in establishing the Small Claims Court in Milwaukee. The committee recommended that the Illinois plan be followed, under which a) local bar associations establish committees for handling legal aid work; b) an agreement with local social agencies to investigate cases and refer them to a lawyer for legal action; c) a system of reporting the results to the social agency; d) a report annually by the social agency to the State Bar on total work handled.

The committee perceptively stated:

“Legal Aid work is of interest to all lawyers, but it only stirs to activity a certain limited number. Search should be made in each county for the man or woman to whom the work makes particular appeal. When such a person has been found in each county progress will be made and the work will go forward in harmony with local Bar Associations as local conditions require.”

The committee report was accepted and the committee continued as a standing committee.

After the Association became staffed and more active, a statewide Legal Aid committee began to coordinate and organize local legal aid efforts. In 1957, the indefatigable Chairman, Walter Graunke of Wausau, (who for years was known as Mr. Legal Aid) gave a powerful push to the local associations to get better organized in providing legal aid. Numerous active local committees came into being, and together with the staffed legal aid societies in Milwaukee, Madison and Green Bay the legal needs of the poor were partially met. But nothing really effective was possible until 1956, when JUDICARE came into being.

During 1959-60, Robert Doyle, a former Milwaukee Journal reporter who was then operating a public relations service, was retained. His counsel was invaluable. The Board requested that he attend all meetings of the Board and Executive Committee.

In April, 1959, an old idea surfaced again, that of having a Client's Security Fund. Many other state bars had such a fund, and the ABA constantly pressured those states not having a fund to establish one. Briefly, it was to be a fund financed from bar dues or assessments, out of which any client having suffered monetary loss through theft by a lawyer would be reimbursed by the fund. The idea had been first broached by President Alfred Godfrey at the annual meeting in 1950. In reporting the proposal a Milwaukee newspaper headed the story “Lawyer Theft Fund Proposed”. The reaction to the headline buried the plan for years.

In 1959, the Junior Bar Association urged the Board of Governors to create a Client's Security Fund, and a special committee was appointed in 1960 to study the

matter. The lawyers were divided on the issue, and nothing came of the proposal.

In July, 1960, the State Bar transmitted to Dr. Fishel, Director of the State Historical Society, a list of a dozen names of senior lawyers who should be made subjects of the initial interviews to be arranged by the Society. This project contemplated extensive interviews with senior lawyers throughout Wisconsin, which were to be tape-recorded and transcribed in an effort to record and eventually edit and publish a book of stories, historical episodes and anecdotes in the history of the bench and bar of Wisconsin.

While the main thrust of the Bar's public relations effort was aimed at the general public, the staff and officers were keenly aware of the importance of internal public relations and communication with its members. In September, 1964, a questionnaire was sent to a sampling of members in all parts of the state. The Executive Director reported to the Board that almost uniformly the answer was that the greatest problem of the practicing bar was in getting caught up in their work, with the second problem being a lack of time in which to keep up to date on changes in the law. He pointed out that commencing with the October BAR BULLETIN, the sections would author pages devoted to “What's New in the Law,” in their respective fields, and that the spring series of regional meetings would be devoted to developments in the law in eight separate fields.

A new string was added to the Bar's public image bow in mid-1979 when the State Bar promoted prepaid legal service plans. This idea was catching on nationally, and was designed to provide personal legal services to individual members of a group at an affordable rate. This was different from group legal service, where the group contracts with a lawyer to provide the service.

A number of plans, with many variations, were established, but the idea never really caught on with the public. The plans are still operative, but provide only a small fraction of the legal work done in this state.

Providing adequate legal service to the poor remained a constant goal of the State Bar. A primary general purpose of the State Bar was set forth in its Rules, “to promote innovation, development and improvement of means to deliver legal services to the people of Wisconsin,” and “to promote the establishment and efficient maintenance of legal aid organizations equipped to provide legal services to those unable to pay for such service.”

The State Bar had pioneered the successful JUDICARE program, which was operating in 28 northern Wisconsin counties, the new federal Legal Services Corporation was funding JUDICARE and two other legal service providers in the state with over \$2,000,000 in 1979, but the Board and President of the State Bar felt that there was no doubt that a substantial unmet need for legal services still existed. In November, 1978, the Bar President announced that he planned a major emphasis on improving and expanding the

State Bar's role in delivering such legal services. During the year the Legal Services Corporation had expanded its programs to cover all of Wisconsin, but persisted in its resistance to allowing the State Bar to take JUDICARE statewide.

During the 1970's the bar membership was uneasy about the apparent poor public relations of the lawyers. When asked, the almost universal response of the members was that the Bar should "do more public relations", but no one had any viable solutions to offer. The problem was not going to be solved by simply throwing money at it. Early in the decade, a new full-time staff public relations man was hired. He had a newspaper background, but that did not assure success in building a better image for the lawyers. He left and a successor, a PR trained journalism graduate, was hired. In 1973, considerable money was paid to a prestigious Milwaukee public relations firm to counsel and advise the Bar on its PR problem. After spending much money on a series of paid advertisements, which proved to be ineffective, the firm bowed out, telling the officers that they simply couldn't do a satisfactory job for an organization such as the Bar. But at least the Bar had tried something.

A significant upward turn in the Bar's PR efforts occurred in 1980, when a new and highly qualified Communications Director was added to the Bar staff. Frank Murphy quickly re-styled the publications and launched an extensive and effective program of putting the Bar's best image forward.

A proposal calling for a major expenditure for a broad campaign of public service advertising was advanced in 1978. It touched off a divisive debate among the members, as the financing was to come from a special assessment against the members.

The opposition went to the Supreme Court to thwart the assessment, and in December, 1978, the Court ordered the State Bar not to assess its members for institutional advertising. The plan proceeded nevertheless with voluntary contributions, and by early 1980 almost \$100,000 had been contributed to what was called the Public Information Program. The Milwaukee Foundation and the Milwaukee Bar Foundation contributed an additional \$13,000, earmarked for the Lawyer Hotline component of the overall program.

The Client Security Fund idea resurfaced at the March, 1980, meeting of the Board when a petition seeking adoption of such fund was directed to the Supreme Court. The petition was approved, and commencing July, 1981, the lawyers were assessed \$15.00 and the CSF became operative March 2, 1981.

As early as 1859, Wisconsin had a constitutional requirement that indigent defendants in criminal cases must be provided with counsel at public expense. This led to the creation of a State Public Defender system in 1975, but the legislature consistently underfunded the program, which in operation had burgeoned into a costly operation. The Bar

was compelled to inject itself in 1980, and again in 1986, to seek adequate legislative support for the program. The present operation is a hybrid of staffed offices and referrals to private attorneys, and the case load and cost continues to grow.

In 1982 the State Bar Media Law Relations Committee developed a first-of-its-kind teaching kit entitled "Trial in a Goldfish Bowl", designed to instruct journalism students and working journalists on the intricacies of the trial process. Although the State Bar had for more than twenty years had good liaison with the Wisconsin press, had held several bar-press conferences, and had evolved a handbook on bar-media relations, this new step further improved the relationship.

As part of the Bar's public service program, the Lawyer Referral and Information Service, which had taken over the Lawyer's Hotline from the Bar Foundation in 1979, has grown into a major operation. In 1985, LRIS was staffed with 3 1/2 persons and handled a volume of 27,860 calls from people located statewide needing help with a legal matter. Three thousand of these callers received free general legal information provided by volunteer attorneys who returned their calls. Five thousand persons were referred to private attorneys, and another five thousand were directed to lawyer referral services in this and other states. Callers also were referred to other sources of help such as consumer offices, regulatory boards, public defenders, legal service corporations, wage claims and equal rights offices.

In 1985 the Bar developed special television programming, on a paid basis.

The image problem of the Bar is a constant one. It exists in every state, and no bar association can ever do enough to satisfy its members. Money alone does not buy good images. The Chief Justice was most perceptive, in 1927, when he made his remarks (quoted on page 1 of this chapter) that in the end, a good public image for the Bar comes from our being better lawyers and judges and performing in a manner to earn public respect.

Chapter Twenty-Five

Building the Bar Center

For the first 42 years, the Association's office was that of whoever was serving as secretary. For the next 28 years, it was in the offices of the State Law Librarian, who was also bar secretary-treasurer. When the Association reorganized in 1948 and opened a staffed office, it was soon apparent that rented quarters would never prove to be ideal for the Association.

In February, 1949, the Association began to look ahead to its own building. A special committee was appointed to consider creating a building trust fund. No action was taken.

As the Association's activities increased, the desirability of larger quarters and preferably for its own building became evident. In 1953, the Executive Secretary commented in the BAR BULLETIN:

"It has long been the hope of some of us who are interested in the future of the Wisconsin Bar Association that at the appropriate time steps can be taken to provide a permanent home for the Association here in Madison. Whether this is to be a new building or a remodeled structure, or where it is to be located or how financed of course remains to be worked out. Nevertheless, there would be considerable pride of ownership and certain advantages to the Association in having a permanent home. It can be designed and planned to expedite the business of the central office, with particular reference to serving the members through publications and mailings and by offering a place to the members where they can hang their hats while in Madison.

"This is not a new or novel idea, since other state organizations have already done this, and bar associations in many other states either now own their homes or are in the process of acquiring them. We already have created the Wisconsin Bar Foundation, which can operate as the financing vehicle. I urge that attention be given this proposal and that as soon as the time is appropriate, a campaign be started to build up a reserve fund for the acquisition of a permanent home"

The matter received thought, and in February, 1955, President Trowbridge put the possibility of the acquisition of permanent headquarters for the Association in Madison to the Council. Following a discussion of the advantages and disadvantages of owning its own building, of the possibilities of securing space in the new law school building or the proposed Wisconsin Foundation (U.W.) building, or of acquiring a long term lease, it was agreed that a special committee be appointed to study the need for and possibility of obtaining a permanent headquarters. This was the first definitive step in a move that produced a

building in three and a half years.

Initially there was not complete agreement on several points. In May, 1955, Trowbridge again pushed his views favoring a building. One governor voiced his opinion that there was no question but that the building be located in Madison, possibly as a joint venture with the Dane County Bar Association. Another board member asserted that there was considerable question as to where the Association should be located and that the Board should not so quickly dispose of the possibility of locating Association headquarters in Milwaukee. He suggested that as Milwaukee had its own Bar Foundation with more than \$20,000 in the treasury, that perhaps a joint undertaking would be of mutual advantage to both Associations.

Another governor pointed out that there was no question of need for a permanent quarters for the association, but that the matter of permanent quarters did not necessarily mean quarters owned or constructed by the Association. He further indicated that a substantial question of cost was involved, especially in tying up a large amount of capital in a building.

There was agreement that the real question was "Does the Association want to ultimately own its own building?"

It was generally agreed that, under no circumstances, was the Council favorably inclined to having Association offices housed in connection with any University building.

To bring matters to a head, the following motion was moved:

"That the Council recommends to the Wisconsin Bar Foundation that it consider the possibility of owning a separate building in Madison which will provide separate headquarters for the Wisconsin Bar Association, and for facilities for the Foundation."

The motion carried. The first step had been taken.

One of the persons pushing for the erection of a building was Charles Crownhart, an attorney who was secretary of the State Medical Society, which had recently completed its own building. Crownhart also headed the newly organized WPS medical insurance plan, which had sizeable reserves, and he offered a long-term loan at low interest to finance the bar building. This offer was eventually accepted.

Matters moved with acceleration. In his inaugural address at the June, 1955 meetings, incoming President LaFrance announced as one of his four goals the building of a permanent home to house the Association. In early September LaFrance informed the Council that an offer to

purchase a site for the Bar Center had been made by the Wisconsin Bar Foundation, consisting of a corner lot at Broom and West Wilson Streets, for \$36,000. The Foundation would finance the purchase with a \$21,000 mortgage, and requested the Association to lend it the remaining \$15,000, secured by a second mortgage. The Council approved of the loan.

By December, 1955, the President was able to report that the site had been purchased, and that a committee was cooperating with the Foundation. He gave a strong pitch for quick action. Plans were by then on a fast track.

At the midwinter meeting, the House endorsed a resolution for a proposal to erect a Bar Center and to cooperate with the Foundation on financing. By April, 1956, the BAR BULLETIN informed the members that an architect had been retained by the WBF and the special committee of the Association to draft preliminary sketches. The Madison firm of Weiler and Strang was chosen.

At the Annual Meeting in June 1956, the House approved solicitation of the members for contributions for building the center. By August a special solicitation committee, headed by George Geffs of Janesville, was organizing the details of the solicitation campaign, which got under way in October. All of the planning, staffing and details were handed by the Association staff. By December, over \$40,000 was paid in or subscribed. But there was a long way to go.

On March 22, 1957, the Executive Committee, which was serving as the building committee, accepted the architect's plans and authorized the taking of bids. Bids were opened on May 10, totalling \$148,335, for the building and parking lot, including the architect's \$8,400 fee. The bids were from highly reputable builders and were below estimates. The committee promptly accepted them. The President announced "We are on our way." Construction proceeded apace.

The fund drive dragged more than had been expected. When bids were opened, the fund goal was still \$70,000 short. By August, \$90,000 had been pledged; by October, \$100,000; and by February, 1958, \$106,000 was pledged with \$73,000 paid in. The fund drive continued.

In December, 1957, the Executive Committee approved expending \$16,000 to \$18,000 for furniture and fixtures to be paid out of current income.

The cornerstone was laid on May 25, 1958, with "proper ceremony." A sealed copper box containing daily newspapers of that day and letters from prominent bar members predicting the state of the bar one hundred years hence was placed behind the cornerstone.

The building was completed in August and the bar staff moved in. It was an inspiring and awesome shock to the five-person staff to occupy such large and elegant quarters, but their efficiency increased markedly.

A formal dedication ceremony was held on October 3, 1958, with United States Supreme Court Justice Tom

Clark as speaker. To accommodate the crowd at the dedication, a large tent was pitched on the parking lot, with rented folding chairs and a speakers' stand provided by the contractor. Following the ceremony, the large number of persons present toured the new quarters. The dream of many had come true.

In February, 1958, the Wisconsin Bar Foundation deeded title to the Bar Center to the State Bar, subject to a condition subsequent providing that if the integrated State Bar was ever abolished, title would revert the Foundation. The transfer was subject to the mortgage from WPS. A special reason for transferring title was that the Foundation could not get a tax exemption for gifts under the pledge drive, whereas the State Bar, as a state agency, could and did get a favorable tax ruling, and also expected to be exempt from property taxes.

Early in 1958, the Madison city assessor adamantly asserted his right to assess the Bar Center, and refused to discuss the matter. On September 12, the Board authorized the officers to take steps to establish the bar's tax exempt status. The Board of Governors, on advice of the Attorney General, allowed the 1958 taxes on the property to go unpaid. In February, 1959, the Attorney General ruled that the State Bar property was exempt from taxation. This did not dissuade the assessor, and at his behest the city attorney made final demand for payment of the delinquent personal property taxes as a means of testing the matter. The Executive Committee requested the Attorney General to represent the State Bar in exerting its tax exempt status, and again declined payment. The city then sued the State Bar for the taxes. The Attorney General demurred. The case was assigned to Circuit Judge Norris Maloney, who heard the matter in chambers on February 28, 1960. Maloney decided in favor of the State Bar, and the city did not appeal. Thus the State Bar's position was upheld, further establishing the bar's status as a state agency.

The fund drive had slipped into low gear. By February, 1960, \$112,000 had been paid in, with about \$34,000 to go after outstanding pledges were collected. Contributions or pledges had been received from 1,300 lawyers, plus several sizeable memorial contributions honoring deceased lawyers, whose names were inscribed on a marble wall in the reception area. Meanwhile, the bar enjoyed a favorable rate on the outstanding balance on its mortgage. "Finish" was written for the fund drive in late 1964, when the Executive Committee voted to liquidate and retire the balance of the mortgage in the amount of \$12,000 as an investment of accumulated building operations account reserves.

A detailed and extensive history of the original Bar Center is contained in the September, 1962, minutes of the Board of Governors.

Before the architect started on the plans for the Bar Center he insisted that the bar officers furnish him with clear-cut estimates of what the bar would be doing in ten

and twenty years and what its staff and space requirements would be at those times. Even the most perceptive and farsighted of those involved did not dream of the rapid expansion of the bar and its activities. By late 1966, it was apparent that the bar needed more parking space, more offices and a meeting hall. In February, 1967, the Executive Committee approved the purchase for \$35,000 of a large house on a 33' by 133' lot adjoining the bar property to the south.

Payment of \$3,000 was from bar reserves, and \$5,000 was contributed by the Foundation. The property was acquired promptly, again by the Foundation, which promptly deeded it to the State Bar with the same condition subsequent clause as was used in the previous transfer.

————— NOTE: * The sale of the property to the State Bar resulted in the permanent suspension of the attorney who handled the matter for the seller. No real estate broker was involved. For several years I had carried on a pleasant over-the-back-fence dialogue with Mrs. Casserly, the elderly widow who owned the house and lived there alone. I constantly reminded her that she ought to sell the house to the bar. Her position was that she wasn't ready yet, but that when she was, she would let me know. One day early in 1967, Mrs. Casserly called to me over the fence and said, "I've decided to move out of this big house and if you want to buy it, I'll sell." I asked how much she wanted, and she told me to contact her attorney, who was going to handle "everything" and deal with him. He was an associate in one of Madison's larger firms. I immediately inquired of lawyer X how much Mrs. Casserly wanted for the property and he told me \$35,000 and that the price was firm. That was \$3,000 to \$5,000 more than I had hoped to pay (remember, this was 1967). I told him I'd have to have a few days, and put the matter to the Executive Committee. The committee was delighted and instructed me firmly, as follows "Look, we have to have the property. Don't quibble over \$5,000. Buy it."

The deal was closed, promptly, with Warren Resh handling the purchase details. Mrs. Casserly was not present at the closing, which was at the Bar Center. It was paid for by the transfer to Mrs. Casserly of three \$10,000 CD's and a check for \$5,000 from the Bar Foundation.

About six or eight months later Mrs. Casserly came to my office. She surprised me by her question: "How much did you pay for my house?" I told her "\$35,000." She replied, "That's what the lady down the street told me," and sat there for a moment in silence. Then she said "I told lawyer X that I wanted \$30,000 for the place and that's all he gave me." I immediately called in Resh and McCarthy, our grievance administrator, who quickly verified the details. Lawyer X had clearly violated his trust, and had skimmed \$5,000 off the deal without telling his client. Disciplinary proceedings followed, and he was suspended. Mrs. Casserly got her extra \$5,000.

In March the President appointed a committee to report to the Board in June its recommendations on:

1. The interim use to be made of the newly acquired property;
2. When it should be converted to parking use;
3. The need, timing and means of constructing a second story.

On June 8, the committee reported:

"The present Bar Center has proved very useful and efficient to operate, but additional space is sorely needed for both offices and meetings of more than 50 people. More and more large meetings are being held.

The building was constructed with an added story in mind, and the necessary footings, conduit and other structures were included. Architectural sketches for the addition are available and are ready for study by the committee at any time a decision is made to proceed.

Building costs are escalating rapidly, and it is estimated that the cost of an added story will be about \$100,000. Planning, bidding, and construction will take about one year.

As soon as the lot is used for parking, it will become tax-exempt."

The President was asked to appoint a special committee to make plans for utilizing the property, to consider plans for the second story, and to recommend on means of financing the addition. By September, the architect who had designed the original building presented to the Executive Committee the rough plans for the addition. He also detailed to the committee the arrangements for razing the adjacent house and converting the lot into a parking area.

On November 27, 1967, the proposed method of financing the addition was outlined by the budget committee of the Board. It called for using the \$55,000 property depreciation reserve, the \$20,000 expansion reserve, plus the \$25,000 to be included in the 1968 budget for property expansion, totalling \$100,000. It also recommended that the cost of carpets, drapes and furniture needed later come from the surplus account.

The committee also reported that the adjacent building had been razed and clearing and filling the property had been completed and paid for. The blacktopping and fencing would be completed in 1968.

The building committee had reported that although the original building had be financed largely by gifts and donations, it involved and extensive campaign for pledges and a great deal of effort. It was the committee's opinion that any expansion should be financed by all of the members through dues and the depreciation reserve, so that each member would contribute equally and nominally to a necessary facility which would benefit each one.

Because the bar's activities were growing and the new

staff and increased programming, as well as the costs of the addition, would require funding, a dues increase was also recommended.

On February 21, 1968, the Board of Governors accepted bids for the addition totalling \$110,752. Construction began at once.

Dedication ceremonies for the addition were held in February, 1969, with Chief Justice Hallows as speaker. The new facilities included a large meeting hall and two offices, plus modest storage space. The meeting room quickly became a center of activity. The added parking space was a genuine boon.

The greatly expanded educational program of the bar, launched as ATS in 1970, burgeoned beyond expectations. Particularly crucial was the need for extensive storage space for the many publications held for sale. Late in 1971 the Executive Committee was authorized by the Board to meet with the architect to explore the possibilities and costs of a storage facility. The architect suggested that the cheapest and most feasible space could be created by excavating the parking area at the rear of the Bar Center, constructing a large underground room of poured concrete, with access to the basement of the Center, and re-laying the parking lot asphalt over the roof of the storage room. The matter remained under study for months, and in February, 1973, the Executive Committee recommended to the Board that it immediately authorized construction of the underground storage facilities at an estimated cost of \$64,500, such funds to be taken from ATS reserves. This was approved and construction was completed by fall. The storage room, which resembled a bomb shelter, became jocularly known to the Board members as the "Curran Hole", after President Tom Curran, during whose term it was built.

Storage was not the only space problem. As bar activities and staff increased, especially ATS, it was only a matter of time before more space would become a critical need. In May, 1974, the Executive Director was

"instructed to obtain architects' drawings and estimates of costs for future expansion of the Bar building, including alternatives available, so as to permit accommodation of future staff and activity expansion, such as the servicing of recertification, specialization, and regulation of trust account programs, and expanded service to sections and committees and increased services to members and local bar associations; and that the Executive Director be authorized to negotiate for the purchase of any land in the immediate area that may be available, subject to approval of the Committee."

The long-time Executive Director retired on November 1, 1974. Two months later his successor reported to the Executive Committee

"that it will be necessary to expand office space at the Bar Center soon. He suggested remodelling the present building by making permanent offices upstairs and having the Board of Governors meet elsewhere. Other possibilities

include buying a new office building or adding on to the present building."

The plans already suggested by the Bar's architect did not meet the new executive's approval, and he chose a new architect and persuaded the Board to authorize extensive and expensive interior remodelling. This was paid for out of reserves. The most unfortunate result was that there was no longer a meeting room or space for the Board of Governors to meet at the Bar Center, and henceforth the Board had to meet elsewhere.

The Bar's size and activities and the staff space needs grew so rapidly that by 1981 an extensive addition was approved, more than doubling the size of the building and adding much-needed office space as well as a large assembly hall in the basement. Plans were drawn by the original building's architect. This addition required the expansion of the parking lot, and to enable this, a small adjoining lot and house were purchased and converted to parking. The bids were opened in September, 1981, and contracts were signed immediately for \$759,000. Two additional adjoining properties had been purchased, but their conversion to office use or parking met violent opposition from neighborhood groups. Since they were not required for the approved expansion, they were sold. The funds from this sale, plus accumulated reserves, enabled the financing of the addition without borrowing.

Bar staff continued to grow, and in 1985 and again in 1986 additional interior remodelling was necessary to enable maximum utilization of the space. These changes were paid for from reserve funds.

In 1986, the State Bar thus owned and occupied a modern bar center building, with adjacent parking. The building consists of three stories, occupying a corner lot. There is underground storage room, entered through the basement. In addition to the executive and administrative offices of the State Bar, all of the ATS-CLE staff is housed, as well as the Wisconsin Bar Foundation. There is an Assembly hall, which is used extensively for ATS sessions. Staff of the State Bar totalled 56 on July 1, 1986, including 18 for ATS. The Foundation had a staff of two. The building has been completely paid for.

Chapter Twenty-Six

Relations With Other Associations

Although Wisconsin had one of the early state bar associations, our lawyers were by no means isolated in relation to the profession in other states. It was entirely coincidental that our state association predated the organization of the American Bar Association by only a few months. That association, too, got off to a slow start, but in February 1901 the Wisconsin bar president said,

"It would seem desirable that regular delegates from this Association should be appointed to attend the annual meeting of the American Bar Association to report back and enable cooperation with that association."

Even prior to that time, Wisconsin lawyers had attended ABA meetings. Henceforth, they had delegate status. In 1918, the association secretary urged that State Bar Association membership be required as a prior condition to ABA membership. Many of the state's lawyers belonged to the ABA but not to the state association. The ABA declined to impose this requirement.

In 1918, Wisconsin lawyers constituted only 289 out of an ABA membership of 11,000. By its nature, the ABA appealed to lawyers in large cities and states for the bulk of its membership.

From early days, the ABA meeting was preceded by a meeting of the Conference of State and Local bars. It was especially to attend those sessions that Wisconsin delegates were sent. In 1919, it was proposed that the expenses of a delegate to attend these session be paid by the State Association, but the idea was rejected.

In 1936 the ABA adopted a plan of a House of Delegates made up of a State Delegate and several state bar association delegates. In June of that year the Wisconsin association appointed a special committee to study and report on the proposed ABA plan to coordinate the State Bar with the ABA.

In 1944 Warren Resh, an assistant Attorney General and an authority on unauthorized practice of law, was appointed to edit the ABA's "Unauthorized Practice of Law Newsletter". He continued in that post until the publication was discontinued in the 1970's.

In 1946, Carl Rix, a prominent Milwaukee lawyer and a past president of the Wisconsin State Bar Association was elected as president of the ABA.

Despite the early involvement of the Wisconsin association with the ABA, the percentage of Wisconsin lawyers who were ABA members remained almost at the bottom of the list of states. This was probably the result of many reasons, including the proximity of ABA headquarters in Chicago, the impression that ABA was big-city-lawyer oriented, and at least during the 1950's the ABA's adamant opposition to bringing lawyers under Social

Security. Some have been so kind as to suggest that the low interest in the ABA was because Wisconsin had such a fine state association, and that the ABA had little to offer to our lawyers that wasn't already done for them. Nevertheless, a large number of Wisconsin lawyers eventually became active in the ABA, especially on committees and in the sections. The situation has changed slightly, and Wisconsin now had 4,893 ABA members and ranked 43rd at the end of 1986 in membership percentage.

The Wisconsin and Minnesota bars have long had a cordial relationship. As early as July, 1919 the two state bars held a joint meeting in La Crosse. The two associations had been collaborating for several years trying to control the flagrant ambulance chasing out of the Twin Cities, especially on railway accident cases, and also on the corporate practice of law.

Liaison with the associations in all the other states was promoted as soon as Gilson Glasier became bar secretary in 1920. Glasier was one of the organizers of the annual meetings of the state bar secretaries at ABA meetings, which were effective even before the day of full-time bar executives. In 1930 Glasier negotiated the exchange of bar association proceedings and magazines with all the other states having similar publications. These were kept in the State Law Library. Receipt and perusal of the magazines and newsletters gave Wisconsin a window to the outside and no doubt many ideas and exchanges of information came in this manner.

Although it had little relationship with the state bar association, a Wisconsin chapter of the Federal Bar Association was organized in Milwaukee in June 1945.

From the early 1930's the problems created for the bar by the unauthorized practice of law by lay persons occupied a great deal of time and attention in Wisconsin. This involved the drafting of wills and deeds by bankers and brokers, the formation of corporations by accountants, estate planning by trust companies and the like. The problem peaked in the mid to late 1930's. The theme of the 1937 bar convention was Unauthorized Practice of Law. The attorney general was especially helpful to the bar. Since cases of unauthorized practice were clearly in violation of the law, he assigned Warren Resh to prosecute many of them. Rather than follow the criminal prosecution route, Resh started with a strong warning letter and demand to desist, written on attorney general's letterhead. This was usually all that was needed, but would be followed by a quo warranto action and injunction. While this delighted the bar, it alienated many in other trades and professions, and was difficult to explain to the public which viewed it as a "fence me in" tactic.

The answer came from the ABA, which had negotiated and adopted Statements of Principles with several other national organizations. At its 1945 annual meeting, the Wisconsin Bar Association adopted agreements which had been negotiated by the bar UPL committee with the state associations of Real Estate Brokers and the Life Underwriters. These statements of principles delineated the turf of the respective professions or groups, proscribed certain activities and provided for a joint effort to settle disputes. In a practical way, they provided a means of handling complaints of UPL which were made to the bar. Agreements with the Bonded Collectors (1947) the Corporate Fiduciaries of Wisconsin (1947) and CPAs (1952) followed.

While UPL was not involved between the lawyers and doctors, many problems arose concerning doctors as witnesses, the use of subpoenas and other inter-professional disputes. The director of the State Medical Society was a lawyer, and the Society's counsel had long been active in the bar association. A joint committee was established in the early 1950's to study the problems and devise a solution. This resulted in the drafting in 1954 of a lengthy Interprofessional Code. This was published in the magazines of the two professional groups and in February, 1955 was adopted by the bar association, followed by the Medical Society. This code worked well and provided the means of arbitrating clashes between the professions, mostly arising out of trial practice. The code was revised and modernized in 1977 and re-adopted by both organizations.

As tax law became more complicated and intertwined with estate planning, the certified public accountants became much more deeply involved in tax matters. Drawing the fine line between what was legitimate accounting advice and service and the practice of law became increasingly difficult. Moreover, many CPAs were also members of the bar. In February 1952 the bar had completed an interprofessional agreement with the CPAs. It soon proved in need of improvement and in June 1955 a special liaison committee with the CPAs was created to consider changes desired by the respective professions and to iron out the problems.

In September 1966 taking the cue from Michigan, an organizational meeting was held for the Wisconsin Association of the Professions. This was a non-stock, non-profit corporation consisting of the associations and their individual members, including doctors, dentists, veterinarians, certified public accountants, teachers, engineers and other professions. The State Bar was invited to join as one of the organizing members. The Board approved and appropriated \$100 for initial membership dues. The association never fully realized its anticipated potential, although it does afford a conduit to other groups to resolve disagreements or misunderstandings and to join forces on legislative matters.

In 1980 the U.S. Department of Justice, having forced the abandonment of fee schedules by bar associations, turned its anti-trust guns on the interprofessional agreements previously described. All state bars, including Wisconsin and also the ABA, were forced to rescind and abrogate all of their interprofessional agreements. This was not a crippling blow for the agreements had largely served their purpose. Unauthorized practice of law was no longer a critical problem and as the other groups grew and matured new and better lines of communication and cooperation had opened.

Wisconsin presently has a close rapport with most other professional groups, mostly through their executives and frequently through their legislative counsels on legislation of joint concern. Bankers no longer draw deeds, trust companies do not attempt to practice law and the CPAs work closely with the bar. Whatever confrontations there are result largely from a clash of the personalities involved.

Chapter Twenty-Seven

Ethics and Grievances

A true profession is marked by specialized knowledge and long and intensive academic preparation, plus adherence to a code of ethics. From the outset, the bar association in Wisconsin was dedicated to high standards of conduct and the policing of the profession to oust or discipline those members who violated its accepted rules. The early lawyers took an oath as officers of the court when admitted. Commencing in 1898, as provided in the Revised Statutes of that year, a statutory oath was in effect a short code of ethics. It was not until February, 1900 that the association's committee on Legal Education suggested the advisability of adopting a formal Code of Ethics. It also suggested that a course of required reading or suitable instructions in ethics should be a prerequisite to admission to the bar. A committee was appointed to report a code, and at the next annual meeting in February, 1901, a proposed code was submitted and adopted.

In those times the Court had not assumed its power of supervision of the bar. In February, 1903, the legislature filled the gap by enacting a bill to provide for disbarment procedures.

In June, 1924, the Association adopted a resolution against solicitation of claims and fee splitting with runners, and saying that it is the duty of lawyers to inform against such persons. The committee on Amendment of the Law was directed to see if legislation was needed to prevent or penalize the practices.

In September, 1920, the American Bar Association Canons were adopted by the Association for Wisconsin. Means of enforcement were woefully inadequate.

When the State Board of Bar examiners was created by the 1885 legislature, its duties related solely to examining applicants for admission to the bar. Not until 1920 did the legislature give the State Board of Bar Examiners the duty of investigating complaints against lawyers. This put teeth into the enforcement of the newly enacted Code of Ethics and provided a means of putting before the Court the final say in disciplining lawyers.

From the very earliest days of the Association, until integration in 1956, there was no official or formal way for the Association to handle complaints against lawyers. Those complaints received were normally referred to a committee of the local bar, or directly to the state Association's Judicial committee. There was no uniformity of procedure in processing complaints, the time involved was far too long, and in the end the Association had no power to discipline other than to expel a member. The original Constitution of the Association provided that if the Association decided that any lawyer's misconduct should be presented to a Circuit Court or the Supreme Court, the

Association should appoint a special committee to present the matter to the Court.

Most local bar associations had grievance or ethics committees which reviewed complaints, most of which had no actionable foundation. After the 1920 legislature granted the Bar Commissioners the power to investigate complaints there was a formal means to move a matter on to the Court. Thereafter, the state Association or the local associations submitted actionable matters to the Bar Commissioners, who re-investigated the complaint and, if warranted, appointed counsel to formally present the matter to the Supreme Court. Inevitably this was a long and cumbersome process, but it was the only one available until the bar was integrated.

In the 1920's and early 1930's, a deplorable situation existed in Milwaukee County on ambulance chasing and solicitation. The matter took much time at the annual meetings of the Association (see Vol. 18, p. 157, proceedings) and on behalf of the local bar associations.

After a searching investigation of especially bad practices made by the Milwaukee Bar in the mid 20's, the bar leaders behind the investigation went to the legislature at the session in 1927 with a set of bills that thoroughly covered the field. But the bills, instead of being accepted, were slaughtered due to opposition by lawyers themselves and by others whose practices would be hit.

In editorializing on the matter in 1935, the Milwaukee Journal said, under the heading "Ambulance Chasing - 10 Long Years":

"In 1929, the proponents of reform tried again, but with no better luck; 1931 was the same story. Each time the legislature would make some few concessions, some little amendments to the practice of law that would deal with unimportant things. But when it came down to the two key proposals--actually to outlaw the "chaser" and to put investigators and claim adjusters under strict license--the legislature ran.

"The last attempt was at the session of 1933, when 766-A was offered. This was a splendid proposal that embodied in one bill both the cardinal points of outlawing ambulance chasing and putting corporation investigators and adjusters under license. The judiciary committee of the assembly recommended indefinite postponement and the bill was indefinitely postponed.

"And that is the story of 10 long years, at the end of which we still have the ambulance chaser."

It was not until several years later that court action and public pressure put an end to the most objectionable of the practices.

Although the ABA Canons of Ethics had been adopted in 1920, they had lost effectiveness in the intervening years. In 1937, the ABA completely revised their Canons of both Professional and Judicial ethics, and in 1938 they were adopted by the Association as the Canons for Wisconsin. However, there was no means of enforcement and it was not until the Supreme Court, in the order integrating the bar in 1956, ordered in Rule 9 that the Canons of Professional Ethics of the ABA were to be the standards governing the practice of law in Wisconsin. Henceforth, the Canons had the force of law in this state.

The Judicial Committee of the Association was one of the four original committees created when the Association was formed in 1878, but the name was a misnomer, as the committee functioned entirely as the Grievance Committee. This was recognized in 1945 when the Association changed the committee's name to "Professional Ethics and Grievances."

In 1957, Supreme Court Justice Timothy Brown requested that the State Bar give to each lawyer at the admission ceremony a copy of the Lawyer's Oath prescribed by statute, which was administered by the Court upon admission. Henceforth this was done, with the copies printed in an attractive form suitable for framing.

As a result of integration of the bar, the new district grievance committees created by court rule were given jurisdiction to investigate complaints and to make recommendations to the State Board of Bar Commissioners for disposition of those complaints having merit. On November 1, 1958, the State Bar hired a full-time staff member as Special Investigator and as Assistant to the Executive Director. Thereafter complaints were given much speedier and more personal attention.

As the bar grew in size, so did the volume of complaints. In the mid-1960's an office was opened in Milwaukee and staffed with a part-time grievance investigator. An assistant investigator was also added to the staff in Madison. The chief spadework and initial hearings continued to be the responsibility of the district grievance committees, with an increasing volume of processed complaints being channeled to the Board of Bar Commissioners. In 1972, the number of district committees was increased to 16 and a new procedure adopted. Wisconsin then became caught up in a national trend among Supreme Courts, which were increasingly assuming full control of the grievance systems. As a result, in 1977, our Court split off all responsibility for handling complaints or grievances and vested it in a new body created by the Court, the Board of Attorney's Professional Responsibility. The former bar staff member who had handled these matters for 20 years, John B. McCarthy, was named the Administrator for the new Board. Over the vigorous protestations of the State Bar, the Court directed that the Board move to quarters outside of the Bar Center, which was done January 16, 1978. Although the State Bar had lost control over the grievance machinery,

it still was required to pay the full costs of the new Board and its employees, which was accomplished by adding a separate amount on each attorney's dues statement. This situation continues to date.

During the course of the Bar Caravans in 1983, local bar leaders voiced concern and considerable disgruntlement over the operation of the Board of Attorneys Professional Responsibility, particularly the lack of proper communication and the methods used by the Board to expand its jurisdiction. This resulted in several frank discussions between the Board's chairman and administrator and the Bar officers. The matter was eventually resolved, and the attorneys and local bar officers appear to now enjoy a better understanding and relationship with the BAPR's operation. A joint petition to the Court to modify the rules was filed late in 1986 by the State Bar and the Board of Attorneys Professional Responsibility.

As of 1986, the Board of Attorneys Professional Responsibility had a staff of four attorneys, four paralegals and six secretaries, a Milwaukee branch office, a budget of \$657,000, and is processing approximately 1,345 complaints a year. In 1985, there were 10 disbarments and 17 suspensions, and 18 public reprimands against attorneys for improper conduct. In proportion to the number of members of the bar, this is the highest percentage in the nation, indicating that our grievance enforcement procedure is extremely efficient and prompt, but not that Wisconsin attorneys are guilty of greater misconduct than those in other states.

Although the Wisconsin Statutes had long contained specific rules governing the keeping of lawyers trust accounts for client's money, nearly one-half of the actionable grievances involved lawyers who had improperly dipped into funds of their clients. In 1972, the State Bar proposed a set of rules for assuring compliance with the client's trust account responsibilities. These were put into the form of disciplinary rules, and in April, 1976 were presented to the Court for adoption. After some study and modification, the Court adopted the rules, and attached to the 1978 State Bar dues statement was a formal Certification of Trust Account which lawyers have since been required to file annually. This has improved the situation, and far fewer problems now occur because of enforcement of the trust account requirements.

Meanwhile, on December 11, 1979, the Supreme Court re-stated the former Canons of Ethics into a new Code of Professional Responsibility, following a complete revision of the Canons by the ABA. The new Code also repealed the former statutory oath and incorporated it therein.

Following the successful attacks of the Federal Department of Justice resulting in abolishment of all bar fee schedules, in the early 1970's the anti-trust division began attacking the portions of the canons of ethics which for more than sixty years had flatly prohibited advertising by

lawyers. Encouraged by this, a case was taken to the United States Supreme Court which resulted in the Court striking down most restrictions on lawyer advertising. This wrought what was undoubtedly the greatest change in ethical requirements for the profession in this century. One has but to look at the current "Yellow Pages" or newspaper want ads or TV to see the results. This posed problems for Wisconsin, and on petition by the State Bar, our Court on April 30, 1979 issued an order amending the Rules of Professional Responsibility to regulate the nature and extent of permissible advertising by lawyers.

The matter of advertising and promotion by attorneys is still a controversial one. The Courts will no doubt have further to say as to its regulation and limitation.

In the late 1960s and early 1970s, there was much debate nationwide about the right of lawyers to specialize, and if allowed, how to regulate specialization. For decades the Canons of Ethics had prohibited specialization or advertising any limitation of practice to selected fields. Several state bars began experimenting by permitting it only in specified fields of practice, often under the guise of a "Certification Plan."

In the early 1970s Wisconsin began to seriously debate some type of specialization plan, but the bar was far from unanimous over both the need and means. In March, 1980 the Specialization Committee presented to the Board a proposed Certification Plan. The Board was unable to agree on the proposal. Following extensive debate, the Board voted in December to submit the plan to an advisory vote of the members in early 1981. Pending results of the poll of the members, the Board deferred submitting the plan to the Court.

On August 21, 1981, a detailed questionnaire was submitted to the members asking for the member's preference as to type of plan in the event the Supreme Court should approve some kind of specialization plan for lawyers. The crucial question, "Should Wisconsin have a specialization plan for lawyers?" was defeated 1,603 (41%) to 2,262 (58%). This led the bar's President to state, "Specialization: The debate goes on and on...and on."

When the Board of Governors decided against petitioning the Court to adopt a specialization plan, attorney Rex Capwell of Racine did so, submitting essentially the same plan proposed by the State Bar's Specialization Committee. The Court denied his petition. The matter is still being debated, and no plan has been adopted for Wisconsin.

Meanwhile, extensive advertising of lawyers in the Yellow Pages had produced de facto self-designation of specialties through the listings published by the lawyers. That, of course, lacks any semblance of testing, experience or qualification as would have been required under the proposed plan.

In the early 1980's a scant decade after it had adopted its Model Code of Professional Responsibility, the ABA

proposed repeal of the Code and adoption of Model Rules of Professional Conduct under a commission chaired by Professor Kutak. The Kutak report had been under way for several years, and the Board of Governors was aware of the drastic changes to be proposed. It appointed a special committee to study and make recommendations on the Kutak proposal. On July 16, 1982 the Board reaffirmed its opposition to the report, and expressed anxiety that the ABA adoption, if it occurred, not be automatically adopted as the code for Wisconsin. The Supreme Court had assured bar leaders that it would not be so engrafted and suspended SCR 10.14, which could trigger automatic adoption. The ABA did adopt the Kutak Rules, after long debate and many modifications, in August, 1983, and the Wisconsin Supreme Court subsequently appointed its own committee to recommend appropriate action by the Court. A hearing was held regarding that committee's recommendations in the Fall of 1985. To date the Court has not acted on them.

The State Bar has offered an extensive and effective program of fee arbitration for many years. Fee disputes between lawyer and client were never considered as ethical violations, unless the fee was exorbitant or the practice repetitive. The rules governing the arbitration committees and procedure were extensively "fine-tuned" by revisions in 1982. The arbitration program continues to serve as one of the most effective and useful State Bar services to the public as well as to the members.

In March, 1986, the State Bar issued a monumental loose leaf volume, "Ethics and Professional Responsibility: a Handbook for Wisconsin Lawyers", edited by Keith Kaap. This work will serve as the basis for ATS-CLE institutes, and should prove to be a highly useful reference on ethical problems.

Chapter Twenty-Eight

Relationship With the Law Schools

Wisconsin has only two law schools. Both are full-time and have long been accredited by the American Bar Association. Some states have suffered from part-time, often evening-only, non-accredited schools, which have produced problems.

Although the University of Wisconsin at Madison was founded February 5, 1849 and held its first classes in the autumn of 1850, the University of Wisconsin Law School was not established until 1868, when it opened with eleven students, and a one year course of study. In 1881, the course was extended to two years, and a "fair English education" was prescribed for admission. The school proved popular, and in 1885 attendance was 269.

In Milwaukee, what started out to be the Milwaukee Law School in 1892 became the Marquette University Law School in 1908.

From 1870 the University of Wisconsin Law School graduates were, by state law, admitted to practice without taking a bar examination. In 1933 this privilege was extended to Marquette Law School students, where it became effective in 1935.

The bar association came into being ten years after the U. of W. Law School, and its relations with that school, as well as with Marquette Law School have been close and continuous. Faculty members have been deeply involved on bar committees and programs; the schools have cooperated on post-graduate legal training conducted by the bar association, and in legal research. The list of outstanding deans and faculty members who contributed to the bar's efforts is a long one, including, such prodigious workers as Deans Richards, Garrison, Young and Boden.

That the situation was deemed very satisfactory in 1928 was set forth by Dean Richards, Chairman of the Committee on Qualifications for the Bar, in his report to the annual meeting:

"The law school has largely supplanted the law office as the source of preparation. This change has come about in the last twenty years and has profoundly affected the methods and scope of training. In this state the present situation is most satisfying. Both the University School and Marquette University Law School have three year courses with two years of prelegal college work required for all seeking their degrees. After Jan. 1, 1929, the University Law School will require three years of college work. Both schools are recognized as Class A schools by the Council on Legal Education of the American Bar Association. The Supreme Court has adopted rules that keep Wisconsin in the vanguard in recognizing the need of making the standards of admission to the bar commensurate with the modern demands on the profession. until sufficient time elapses to enable the Committee to observe the working of

the new rules, it seems undesirable to make further suggestions."

"In the opinion of the Committee, the members of this Association can take just pride in the early and sustained interest of the Association in high standards for the bar. During a period of rapid change, it has always stood for advancement. It is not too much to say that the present attainments are due to its interest and activity."

In 1952 the facilities of the University Law School were grossly inadequate. The bar Committee on Legal Education made a strong pitch for needed expansion and modernization of the physical plant at the law school. It urged and received support from the Association to furnish active and vigorous support pushing modernization and expansion of the law buildings. This proved helpful.

In 1966 the committee was supportive of efforts at both law schools to grant the degree of Doctor of Jurisprudence (J.D.). The committee recommended, after much compromising of views, that:

1. Both Marquette and the University of Wisconsin should grant a doctorate degree, the name, etc. to be determined by agreement between the two schools.
2. Both schools should grant the same degree.
3. Both schools should establish the same standards for the recipients of the degree.
4. All graduates should receive the same degree without distinction as to class status or grades.
5. Both schools should grant doctorates to all past graduates upon application and payment of a reasonable fee.

Both law schools now grant the J.D. degree.

From 1950 on the bar association, on invitation of the Supreme Court, has presented a brief "welcome to the bar" message to those taking the oath of admission before the court. This has traditionally been given by the President or Executive Director. Following the swearing in ceremony, the bar has hosted, with assistance from the Lawyer's Wives (now Legal Auxiliary of Wisconsin), a reception for the newly admitted lawyers.

The cooperation and rapport between the State Bar and our two Wisconsin law schools remains excellent, and indeed the long history of amicable and supportive relationships is a bright spot in bar history.

Chapter Twenty-Nine

The Wisconsin Bar Foundation

Quirks of fate influence our lives. It was such an unanticipated occurrence that led to the formation of the Wisconsin Bar Foundation.

Late in the summer of 1950, the Rock County Bar held a dinner meeting. Chief Justice Rosenberry was the speaker, and since the association's executive secretary was to attend, he invited the Chief Justice to ride to Janesville with him. Both were seated at the head table. Seated next to the bar secretary was a prominent, elderly Rock County lawyer. During a lull in the program, the lawyer leaned over and told the bar executive that he was re-doing his will and "wanted to do something for the bar association". Specifically, "Was there some bar entity that he could name to receive a bequest?". He was advised that there was not at present, but that shortly the situation would be corrected.

On the ride back to Madison this was related to the Chief Justice, who said, "You need a foundation. Come to see me next week and we will work on putting one together." This was done.

On September 29, 1950, Chief Justice Rosenberry reported that the Articles were "about ready". The executive committee then appropriated \$500 to defray the organizational expenses and the cost of a leaflet explaining the new Foundation to the bar members. In May, 1951, the Wisconsin Bar Foundation was incorporated. It was a non-stock, non-profit corporation, open to any member of the bar. Five prominent members of the bar signed the Articles as incorporators. The statement of purpose in the articles contained a surprisingly wide range of activities, including the advancement of professional ethics; improving the uniformity of judicial proceedings; offering training courses for lawyers; elevating judicial standards; improving relations between members of the bar, the judiciary and the public; the acquisition of property; and the preservation of the American constitutional form of government through education, research and publicity.

The Rock County lawyer whose request triggered the organization of the Foundation was promptly advised of the fact. However, when he died several years later, there was no mention of the bar or the Foundation in his will. Such is fate.

The Foundation directors were appointed by the Board of Governors of the bar. They in turn elected the Foundation officers. No dues were charged and all members of the bar were invited to become members of the Foundation. Gifts and contributions were anticipated, but they came slowly. The bar executive served as secretary-treasurer, and all staff services were provided by the association, which wanted to encourage the Foundation. The main obstacle to a viable Foundation was a lack of

projects or programs. Nevertheless, the entity stood available to serve any useful purpose.

The Foundation did little during the 1950's, other than to play an instrumental part in aiding the construction of the bar center building. Prior to integration of the bar, there was some question about the status of the voluntary association to hold title to real estate, especially as to mortgaging and transferring it. When the decision to eventually build a bar center was made, it was decided to use the Foundation to take and hold title to a desirable site which came on the market. The two lots were purchased, subject to a mortgage. When construction commenced in 1956, the Foundation again assisted in the financing by arranging a very favorable mortgage with the State Medical Society. Title to the land and the structure was held by the Foundation. After the drive for contributions to pay for the center was completed, by which time the bar was integrated with clear authority to hold title to real property, the mortgage was retired and the Foundation deeded title to the State Bar, with a condition subsequent clause that provided that if the integrated bar was ever discontinued, title to the building and land would revert to the Foundation.

In 1962 the State Historical Society of Wisconsin was building Stonefield Village at Cassville, a replica of a 1890 village. The Society desired to erect a pioneer law office, laid out and furnished as an 1890's lawyer's office looked. They requested \$4,500 from the association, which turned the project over to the Foundation.

An attractive brochure explaining the project was produced and mailed by the Foundation to all lawyers. This solicitation very quickly yielded over \$5,500, mostly in \$5.00 contributions. Both the Society and the Foundation were gratified at the results, and the Pioneer Law Office was built and opened in 1964. It remains a prominent party of the Stonefield village panorama.

In July of 1961, the status of the Foundation, which had been dormant since it obtained and transferred title to the bar property to the State Bar of Wisconsin, was reviewed by the Executive Committee. It was agreed that the Foundation could perform useful and necessary services in conjunction with the State Bar, and that it should be reactivated and certain changes to its articles and by-laws considered, including the possibility of providing that its directors consist of the immediate past presidents of the State Bar.

The Executive Director then communicated with the officers and directors of the Foundation, requesting that they call a special meeting of the Foundation for the purposes of reactivating the Foundation, adopting desirable changes to the articles and by-laws, and making plans

for the future activities.

Changes were effected, and under rather vigorous pushing by past presidents Hallows and La France, some slight progress was made. The major obstacle was still the lack of projects that would attract lawyer support. It was not until 1969 when Project Inquiry was commenced that the Foundation began to move ahead. This program involved hundreds of lawyers throughout the state making presentations to high school classes on law subjects. The materials and impetus for the programs were arranged by the Foundation. The project continues to date, and has been a major public relations tool.

Mock trial scripts were also prepared and distributed. This increased activity soon required staffing, and as more contributions were flowing in, a Foundation staff director was hired in 1974.

It was soon evident that the membership base of the Foundation should be broadened. Again, the dynamism of Gordon Sinykin, who was by then Foundation president, asserted itself. In June, 1976, Sinykin requested that the Executive Committee approve amendments to the articles of incorporation and bylaws of the Foundation. The primary change would make all active members of the State Bar members of the Bar Foundation. The members would then vote for the Directors of the Bar Foundation, supplementing the existing system whereby all past presidents of the State Bar serve as Directors. The Bar Foundation would hold its annual meeting before the Annual meeting of the State Bar.

These changes were made soon thereafter. By thus "going public" and giving every bar member a vote for a new slate of candidates for directors, and also doubling the number of directors, considerable new blood and enthusiasm was breathed into the Foundation.

Still hurting for lack of adequate funds, the Foundation sought new sources. At the suggestion of the State Bar director, the Foundation president wrote to eight prominent and highly successful lawyers who were engaged in business rather than law practice requesting their assistance in devising a new and effective source of funding. One of them, John Joanis of Sentry, suggested that the State Bar "roll on" a small contribution, to be billed and collected along with the State Bar dues. This addition would be optional, and clearly so designated, but payment was made easy by this device. The Foundation and State Bar agreed to a \$10 roll-on for 1976, and it produced a favorable response from over 60% of the bar members. This produced over \$60,000 for the Foundation that year, and more than \$50,000 the next year. However, the foes of the integrated bar used this as an argument against integration, and the Court ordered the State Bar to discontinue the roll-on and instead merely provide a line on the dues bill for a voluntary contribution in no set amount. This reduced contributions to only a few thousand dollars a year.

In any event, this two-year shot-in-the-arm gave the Foundation a firmer financial base. Renewed fund drives produced enough to sustain operations.

In October, 1978, Foundation President DeWitt requested funding from the State Bar for a Bar Foundation-sponsored Lawyer Hotline, which would utilize volunteer lawyers answering the telephone. Only very simple questions would be answered and callers with more difficult questions would be advised to contact the Lawyer Referral Service. A WATS line, appropriate telephone equipment including answering devices and modest advertising were estimated to cost \$3,750 for the first year of operation. The chairman of the Lawyer Referral Committee endorsed the hotline concept, and felt it would increase lawyer referral usage.

Following vigorous debate over the propriety of giving legal advice over the telephone, and accompanying problems of liability, the Bar funded the Lawyer Hotline with \$3,750, provided that it was co-sponsored by the Lawyer Referral committee and that all questions as to liability were satisfactorily resolved.

The Hotline went into operation, and soon became so active and such an integral part of the Lawyer Referral program that the State Bar took over operation of the program completely. Over 300 volunteer lawyers answered more than 111,000 calls from over 400 Wisconsin communities in the Hotline's first two years.

Once the Foundation received funds and hired staff, the activities picked up. In addition to Project Inquiry and the mock trials, these programs merit mention:

- In 1978, a television program, Judge for Yourself, a law quiz with questions answered by attorneys Maryann Schacht of Beaver Dam and Richard Cates of Madison: This program was shown on public television stations throughout the state and was followed by pilot lawyer hotlines--15 lawyers each in the Madison and Milwaukee television stations answered callers' simple legal questions.
- In 1975, a public radio series, Inquiry: The Justice Thing with the Wisconsin Education Radio Network: This series of 15 audio tapes is available from the Bar Foundation's Resource Center.
- From 1977 to 1979, co-sponsorship of the Law-Related Education Project with the Wisconsin Department of Public Instruction: This project trained numerous Wisconsin Teachers, produced curriculum materials and increased the popularity of Project Inquiry.
- In 1975, the Law for Everyone program with local bars: This series of six lectures offered at UW extensions or technical colleges, was revised in 1979, and outlines are available free to Wisconsin Lawyers.

- A Resource Center for lawyers and teachers: The Center contains scripts for mock trial lecture outlines for Law for Everyone, the American Legal System, and Project Inquiry; a news clipping service for updating highschool teaching materials, and video and audio tapes.
- Case Mediation Project. A program of volunteering attorney mediators working to reduce the calendars of overcrowded District Court room dockets in Dane County. Twelve judges are working with the Bar Foundation on this project.
- 'ON BEING 18'. A publication distributed to Wisconsin youth upon reaching the age of majority. This material has been written and revised by volunteer attorneys, and is now in its second edition.
- WHA-Public Radio Call-In Program featuring qualified volunteer Wisconsin attorneys speaking on various legal subjects of interest to Wisconsin citizens.

In 1981 the Foundation commenced an endowment fund drive to raise \$1,000,000 from 1,000 attorneys to form a fund for investment. Called Lawyers Endowment for Public Service, the campaign has to date raised over \$300,000, and is progressing steadily.

In 1986, current programs offered by the Foundation include:

- a) The Annual High School Mock Trial Tournament
- b) Distribution of "ON BEING 18" and "LEGAL RIGHTS FOR THE HEARING IMPAIRED"
- c) Dane County Case Mediation program
- d) Project Inquiry
- e) Statewide coordination of National Essay Contest to celebrate the Bicentennial of the Constitution

In 1986, most state bar associations have a bar foundation. They can be a very valuable adjunct to a state bar association, for the foundation has financial resources not available to the bar association, and can fund projects which the association cannot properly undertake, cannot afford or does not wish to participate in.

The Wisconsin Bar Foundation is today one of the more active and widely respected foundations in the country.

Chapter Thirty

The Auxiliary

The annual and midwinter meetings held in the years following 1948 were increasingly well-attended. More and more wives accompanied their lawyer husbands to the meetings, especially to the June convention held at an attractive resort. This was good, for it assured a fine turnout at the banquet sessions, and also increased lawyer attendance at the meetings, encouraged by their wives who wanted to accompany them. But it posed no little problem for the meeting planners and often the local bar association in the area, for it became increasingly necessary to provide something interesting for the wives to do while their husbands attended business or CLE sessions.

In June, 1953, President Oscar Toebaas proposed to the annual meeting that "I recommend we give due consideration to inviting the wives to organize a women's auxiliary". A committee to organize one was immediately appointed.

The idea met with widespread approval of the wives, and by February, 1954 the organization was officially launched as the Lawyer's Wives of Wisconsin. Apparently ours was the second such group in the country.

No doubt Toebaas got the idea from the State Bar of Michigan, which already had an organized auxiliary, for he had several close friends in the Michigan bar.

There was no dearth of extremely capable and interested wives, and the new group got off to a fast and successful start. By October, 1955, it had 331 paid members.

In its early years the group was largely social, but very supportive of association activities. The auxiliary almost immediately and very successfully solved the problem of programming special activities for the wives at the annual and midwinter bar meetings.

The organization's membership continued to grow, and about 25 local chapters were chartered by the state group. Nominal membership dues were charged and the group soon had a small working budget. The State Bar, happy to be of assistance, (the ladies had a strong lobby) maintained the auxiliary mailing list and aided in mailings.

The group was soon providing several very visible and important services which were greatly appreciated by the bar. Working through the local chapters, over the years the auxiliary arranged innumerable receptions for newly admitted lawyers and their families, and hosted many receptions following the swearing in of groups of new citizens by the federal courts. They also hosted receptions following the swearing in of new justices and judges.

The Auxiliary established the Portia Scholarship for the outstanding female law student at both Marquette Law School and the University of Wisconsin Law School in 1955.

In 1976, the name was changed and eligibility extended to men as well as to women because the University of Wisconsin declined to accept any scholarship restricted to a female student. The Legal Auxiliary of Wisconsin Scholarships are awarded annually and are funded by the organization's dues.

The Auxiliary also maintains the Memorial Loan Fund at both law schools. Funded by dues and by donations and memorials, the fund is administered by the law school deans, and is intended to meet short term financial needs of students.

In the mid-1970's the Auxiliary became deeply involved in Law-Related Education, editing and printing several hundred thousand booklets entitled "You and the Law", written by former Waukesha County Judge William Callow. The State Bar defrayed the publication costs of the booklet and accompanying teacher's guide, which was distributed throughout the state by the Auxiliary to 9th grade classes.

"The Laws are Yours", a publication designed for adults was the group's next project, and those booklets were distributed statewide.

The Auxiliary is still active and effective, with 1,000 members and 18 local chapters. A significant current project is cooperation with the Wisconsin Bar Foundation, the Young Lawyers Division of the State Bar, the Wisconsin Department of Public Instruction, the Wisconsin Association of School District Administrators, the Wisconsin Parent Teacher Association, and the Wisconsin Association of School Boards in promoting the highly regarded Mock Trial project in high schools throughout the state.

Reflecting both the change in the composition of the Bar and in the role of women in society, the Organization recently voted to change its name to "Legal Auxiliary of Wisconsin". Membership is open to the past or present spouse of any past or present member of the State Bar of Wisconsin. The focus of activity continues to extend well beyond the original social programming. Today, convention activities include jointly sponsored sessions for spouses and attorneys and spouses are welcome to attend convention sessions.

Currently, a member of the Board of LAW sits on the Wisconsin State Bar convention and Entertainment Committee.

Chapter Thirty-One

Epilogue

Associations and their publications come and go. Few survive more than a decade or two. Here we have witnessed an association that has endured 108 years and its magazine for 58 years. Both are strong and growing and appear to be so constituted as to continue indefinitely.

This history necessarily had to arbitrarily terminate at some point, and mid-1986 was chosen. It ought to be updated periodically.

Because of space limitations, it was necessary to limit the treatment of certain segments of the story. Separate histories should be written covering the story of our court system, the Board of Pleading, Practice and Procedure, our system of statutory rule making by the Court and the revisor of statutes, and that of the growth and relationship of our

two state law schools with the bar and the court.

Footnoting has been omitted intentionally, but from the research records filed on a time and source basis the original sources can be located if necessary. In a few instances the material is based on the writer's recollections as a participant or observer and as such necessarily reflect his personal opinion and fallibilities of memory.

Everything considered, the effort to compile this record of the growth of the organized bar in Wisconsin seems worthwhile, for unless all of this material was pulled together and preserved, much of it would eventually be lost even to the most diligent researchers of future generations. Overall, the hand of fate seems to have steered us well. May the future continue in similar manner.

A Note about the Author



Attorney Philip S. Habermann, Madison, was the first full-time executive of the organized bar in Wisconsin, serving from 1948 through 1974. An economics major in the Class of 1935 at the University of Wisconsin- Madison, he served from 1935 through 1941 with the League of Wisconsin Municipalities, followed by two years as Director of the Maine Municipal Association. After three years as a supply officer in the Navy during WW II, he returned to finish his law degree at the UW Law School in 1947. He then served as the first executive secretary of the newly created Wisconsin Legislative Council until December 1948 when he became the director of the Wisconsin Bar Association, and opened the bar's first full-time office. After integration of the bar in 1956, he continued as executive director until he retired. From 1975 through 1981, he conducted 72 management surveys for the American Bar Association.

Appendix A

Past Presidents of the Organized Bar in Wisconsin

1878-93	Moses M. Strong Iowa County	1915-16	George B. Hudnall Douglas County
1893-98	William M. Seaman Sheboygan County	1916-17	B. R. Goggins Wood County
1898-99	John B. Cassoday Dane County	1917-18	Roujet D. Marshall Dane County
1899-1900	Edwin E. Bryant Dane County	1918-19	John B. Winslow Dane County
1900-01	Joshua Stark Milwaukee County	1919-20	P. H. Martin Brown County
1901-03	F. C. Winkler Milwaukee County	1920-21	John C. Thompson Winnebago County
1903-04	George G. Green Brown County	1921-22	John M. Whitehead Rock County
1904-05	George H. Noyes Milwaukee County	1922-23	William F. Shea Ashland County
1905-06	A. A. Jackson Rock County	1923-24	William A. Hayes Milwaukee County
1906-07	L. J. Nash Manitowoc County	1924-25	Wm. D. Thompson Racine County
1907-08	Burr W. Jones Dane County	1925-26	Roy P. Wilcox Eau Claire Cty.
1908-09	Neal Brown Marathon County	1926-27	Marvin B. Rosenberry Dane County
1909-10	James G. Flanders Milwaukee County	1927-28	Frank T. Boesel Milwaukee County
1910-11	M. A. Hurley Marathon County	1928-29	Edward J. Dempsey Winnebago County
1911-13	John M. Olin Dane County	1929-30	Arthur W. Kopp Grant County
1913-14	C. B. Bird Marathon County	1930-31	J. Gilbert Hardgrove Milwaukee County
1914-15	Christian Doerfler Milwaukee County	1931-32	Clarence J. Hartley Douglas County

1932-33	W. T. Doar St. Croix County	1950-51	Bailey E. Ramsdell Eau Claire Cty.
1933-34	Carl B. Rix Milwaukee County	1951-52	Alfred L. Godfrey Walworth County
1934-35	T. L. Doyle Fond du Lac Cty.	1952-53	Oscar T. Toebaas Dane County
1935-36	Otto A. Oestreich Rock County	1953-54	E. Harold Hallows Milwaukee County
1936-37	Ray B. Graves Wood County	1954-55	Frederick N. Trowbridge Brown County
1937-38	Benjamin Poss Milwaukee County	1955-56	Alfred E. LaFrance Racine County
1938-39	Robert M. Rieser Dane County	1956-57	Robert D. Johns La Crosse Cty.
1939-40	Harlan B. Rogers Columbia County	1957-58	R. E. Anderson Douglas County
1940-41	William Doll Milwaukee County	1958-59	Charles L. Goldberg Milwaukee County
1941-42	Walter W. Hammond Kenosha County	1959-60	Herbert L. Terwilliger Marathon County
1942-43	A. J. O'Melia Oneida County	1960-61	Carroll B. Callahan Columbia County
1943-44	R. T. Reinholdt Portage County	1961-62	John C. Whitney Brown County
1944-45	Edmund B. Shea Milwaukee County	1962-63	John A. Kluwin Milwaukee County
1945-46	Quincy H. Hale La Crosse County	1963-64	Francis J. Wilcox Eau Claire Cty.
1946-47	John S. Sprowls Douglas County	1964-65	Lyall T. Beggs Dane County
1947-48	Marcus A. Jacobson Waukesha County	1965-66	Donald C. O'Melia Oneida County
1948-49	John P. McGalloway, Sr. Fond du Lac Cty.	1966-67	Ray T. McCann Milwaukee County
1949-50	Gerald P. Hayes Milwaukee County	1967-68	Frank D. Hamilton Iowa County
		1968-69	Richard P. Tinkham Marathon County

1969-70	John C. Wickhem Rock County
1970-71	James D. Ghiardi Milwaukee County
1971-72	Clyde C. Cross Sauk County
1972-73	Thomas J. Curran Juneau County
1973-74	Victor A. Miller Manitowoc County
1974-75	Patrick T. Sheedy Milwaukee County
1975-76	Jack R. DeWitt Dane County
1976-77	Rodney O. Kittelsen Green County
1977-78	George K. Steil Rock County
1978-79	Truman Q. McNulty Milwaukee County
1979-80	Richard E. Sommer Oneida County
1980-81	Lawrence J. Bugge Dane County
1981-82	Myron E. LaRowe Sauk County
1982-83	Edward A. Dudek Milwaukee County
1983-84	Adrian P. Schoone Racine County
1984-85	Gregory B. Conway Brown County
1985-86	Donald L. Heaney Dane County
1986-87	Franklyn M. Gimbel Milwaukee County
1987-88	Gerald M. O'Brien Portage County

Appendix B

Past Meetings of the Wisconsin State Bar Association

PAST MEETINGS OF THE WISCONSIN STATE BAR ASSOCIATION

1878	January 9	Madison
1881	June 14, 15, 16	Madison
1886	February 16	Madison
1886	June 16 (special meeting)	Milwaukee
1893	June 20	Milwaukee
1893	August 30 (adjourned meeting)	Milwaukee
1895	June 26, 27	Milwaukee
1898	February 22	Madison
1899	February 14	Madison
1900	February 12, 13	Madison
1901	February 12, 13	Madison
1903	February 17, 18	Milwaukee
1904	February 16, 17	Milwaukee
1905	February 28, March 1	Madison
1906	March 13, 14	Milwaukee
1907	March 12, 13	Milwaukee
1908	June 30, July 1	Milwaukee
1909	August 31, September 1	Milwaukee
1910	June 28, 29	Milwaukee
1911	June 29, 30	Milwaukee
1912	August 28	Milwaukee
1913	June 24, 25	Wausau
1914	June 24, 25	Green Bay
1915	July 14, 15, 16	Superior
1916	June 28, 29, 30	Oshkosh
1917	June 27, 28, 29	Madison
1918	June 26, 27, 28	Racine
1919	July 1, 2, 3	La Crosse
1920	September 28, 29, 30	Milwaukee
1921	June 23, 24, 25	Chippewa Falls
1922	June 27, 28, 29	Fond du Lac
1923	June 26, 27, 28	Janesville
1924	June 26, 27, 28	Appleton
1925	June 25, 26, 27	Eau Claire
1926	June 24, 25, 26	Kenosha
1927	June 22, 23, 24	Green Bay
1928	June 20, 21, 22	Madison
1929	June 27, 28, 29	Milwaukee
1930	June 25, 26, 27	Wausau
1931	June 24, 25, 26	Superior
1932	June 22, 23, 24	Oshkosh
1933	June 21, 22, 23	Green Lake
1934	June 20, 21, 22	Green Lake
1935	June 27, 28, 29	Green Lake
1936	June 29, 30, July 1	Green Lake
1937	June 24, 25, 26	Green Lake
1938	June 22, 23, 24	Madison

1939	June 26, 27, 28	Milwaukee
1940	June 27, 28, 29	Green Lake
1941	June 26, 27, 28	Green Lake
1942	June 25, 26, 27	Madison
1943	June 25, 26	Milwaukee
1944	June 22, 23	Milwaukee
1945	June 29	Milwaukee
1946	June 27, 28	Lake Delton
1947	June 26, 27, 28	Green Bay
1948	June 24, 25, 26	Elkhart Lake
1949	June 23, 24	Elkhart Lake
1950	June 27, 28	Elkhart Lake
1951	June 21, 22	Elkhart Lake
1952	June 19, 20	Elkhart Lake
1953	June 24, 25, 26	Madison
1954	June 24, 25	Eau Claire
1955	June 23, 24	Green Bay
1956	June 21, 22	Madison
1957	June 12, 13, 14	Delavan
1958	June 11, 12, 13	Delavan
1959	June 10, 11, 12	Delavan
1960	June 15, 16, 17	Lake Delton
1961	June 14, 15, 16	Delavan
1962	June 15, 16	Delavan
1963	June 11, 12, 13	Delavan
1964	June 10, 11, 12	Eau Claire
1965	June 15, 16, 17	Delavan
1966	June 14, 15, 16	Delavan
1967	June 13, 14, 15	Delavan
1968	June 12, 13, 14	Delavan
1969	June 17, 18, 19	Delavan
1970	June 16, 17, 18	Delavan
1971	June 15, 16, 17	Delavan
1972	June 13, 14, 15	Delavan
1973	June 19, 20, 21	Delavan
1974	June 18, 19, 20	Delavan
1975	June 16, 17, 18	Delavan
1976	June 15, 16, 17	Fontana
1977	June 14, 15, 16	Fontana
1978	June 21, 22, 23	Fontana
1979	June 13, 14, 15	Fontana
1980	June 24	Milwaukee
1980	June 25-28	Mackinac
1981	September 23, 24, 25	La Crosse
1982	September 22, 23, 24	Lake Geneva
1983	September 21, 22, 23	Lake Geneva
1984	June 20, 21, 22	Lake Geneva
1985	June 19, 20, 21	Fontana
1986	June 25, 26, 27	Fontana

Appendix C

Wisconsin Bar Association/State Bar of Wisconsin Finances

<u>YEAR</u>	<u>INCOME</u>	<u>EXPENSES</u>	<u>BALANCE</u>	<u>MEMBERSHIP</u>
1878	584	--	--	292
1881	NA	NA	--	353
1886	NA	NA	--	NA
1893	NA	NA	--	NA
1895	NA	NA	--	NA
1900	562	195	361	471
1905	432	562	54	504
1910	NA	NA	625	
1915	685	593	2,023	520
1920	1,759	2,168	1,482	784
1925	7,346	3,279	4,067	761
1930	13,160	6,891	6,269	1,600
1935	10,362	10,450	6,996	1,700
1940	9,593	7,081	2,508	1,914
1945	5,989	6,070	3,286	2,100
1950	28,464	24,011	19,750	4,750
1955	44,000	45,000	13,000	3,515
1960	99,820	107,128	46,162	6,953
1965	151,788	107,128	128,901	7,300
1970	228,700	238,040	154,445	8,302
1975	360,816	439,393	196,195	9,893
ATS*	201,553	196,195	103,571	
1980	924,250	994,647	8,970	11,916
ATS	533,551	581,136	64,830	
1985	1,914,942	1,805,828	0	14,198
ATS	1,080,054	1,127,124	237,819	

*Advanced Training Seminars (ATS) is a separate continuing legal education function.

