



THE IOWA LAWYER

Volume 62 Number 3 March 2002

Looking back is looking ahead
Remembering law practice
in the 50's



William F. Riley
1949-1950



Ingalls Swisher
1951-1952



T.M. Ingersoll
1950-1951



E. W. McNeil
1952-1953

Past Presidents
Iowa State Bar Association

ALSO IN THIS ISSUE

You must opt "out" from *Iowa Lawyer Online*
Special BOG meeting highlights
Lawyer legislators want you!



Published at 521 East Locust
Des Moines, Iowa 50309
Charles Corcoran, Editor
515-243-3179



**THE IOWA STATE BAR ASSOCIATION
OFFICERS 2001-2002**
President, C. Joseph Holland, Iowa City
President-elect, Alan E. Fredregill, Sioux City
Vice President, Kevin Collins, Cedar Rapids
Immediate Past President, Bruce Graves
Executive Director, Dwight Dinkla

THE IOWA LAWYER
(ISSN 1052-5327) is published monthly by The Iowa State Bar Association, 521 East Locust, Des Moines, Iowa 50309. Subscription included in membership fee. Non-members, \$30 per year. Periodicals postage paid at Des Moines, Iowa.

Postmaster: Send address changes to *The Iowa Lawyer*, 521 East Locust, Des Moines, IA 50309.

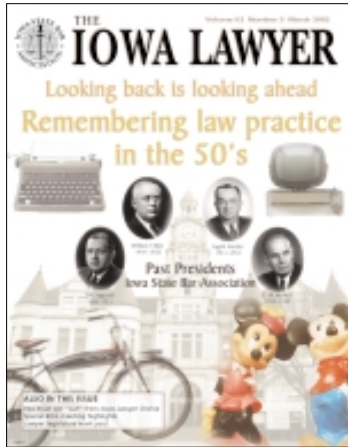
The Iowa Lawyer is printed by Colorfx, 10776 Aurora Ave., Des Moines, IA 50322. Telephone (515) 270-0402.

Art Director: Ann Firkins

Classified Advertising
Qualifying ISBA members - 2 months free; \$70 thereafter
Non-members - \$110 per column inch per insertion
See classified section for details.

For Display Advertising Rates
Contact David R. Larson (515) 440-2810; or write:
The Iowa Lawyer, c/o Larson Enterprises, 909 50th St.,
West Des Moines, IA 50265.

Communicating with *The Iowa Lawyer* online:
Send your comments and Letters to the Editor to
ccorcoran@iowabar.org. Please include your daytime
phone number should we need to contact you with an
answer or for verification. Executive Director Dwight
Dinkla's electronic mail address is ddinkla@iowabar.org.
Executive Assistant Judi Stout is at jstout@iowabar.org.
Computer Service Director Harry Shipley's address is
hshipley@iowabar.org.



About the Cover
Artifacts from 50 years ago, when chrome and tail fins decorated cars, clunky "modern" furniture and gaudy colors appointed homes, and war haunted families whose sons went off to fight, help recall the "Fabulous 50's." This month ISBA Executive Assistant Judi Stout delves into the Bar's archives so you can compare that bygone era with today. If you are too young to recall that "simpler" time firsthand or old enough to have practiced law then makes no difference – take a look back and savor what Iowa attorneys have built to bring us to today. Computers, copiers, the Internet, faxes and digital imaging never crossed lawyers' minds as tools of their trade then but they nevertheless practiced good, honest law and laid the solid foundation upon which this state's lawyers thrive now.

Wieck II succeeds Courtney Page 4
President's Letter – Holland . . . Page 5
IOLTA grant application deadline nears
. Page 6
Special BOG meeting highlights . . Page 7
Legislating lawyers want you! . . . Page 9
Law in the '50s – COVER STORY – Stout Page 11
Lawyer Referral Service going online Page 18
Copying copyrighted materials - Hartung
. Page 19
Futurist's predictions surprise – Fredregill Page 21
Thanks to YLD workers – Ahlers Page 22
Classified Advertising Page 23
Inside ABA's Philly meeting – Funkhouser Page 26
Continuing Legal Education calendar Page 30
Do YOU want to be listed on the Web? Page 31

Iowa State Bar Association Board of Governors

OFFICERS:

C. Joseph Holland, president, Iowa City (319) 354-0331; Alan E. Fredregill, president-elect, Sioux City, (712) 255-8838; Kevin Collins, vice president, Cedar Rapids, (319) 365-9461; Dwight Dinkla, secretary, Des Moines, (515) 243-3179, Bruce B. Graves, immediate past president (515) 242-2400.

DISTRICT 1-A:

Marion Beatty, Decorah, (319) 382-4226;
Stephen Juergens, Dubuque, (319) 556-4011.

DISTRICT 1-B:

Kevin McCrindle, Waterloo (319) 234-0535;
George L. Weilein, Waterloo, (319) 233-6163.

DISTRICT 2-A:

C. Bradley Price, Mason City, (641) 423-1173;
Thomas A. Lawler, Parkersburg, (319) 346-2650.

DISTRICT 2-B:

Steven W. Hendricks, Fort Dodge, (515) 576-4127;
Jim P. Robbins, Boone, (515) 432-7114;
Joel T. Greer, Marshalltown, (641) 752-5467.

DISTRICT 3-A:

David Bibler, Algona (515) 295-3565.
Joseph Fitzgibbons, Estherville, (712) 362-7215

DISTRICT 3-B:

James Lohman, Denison, (712) 263-4627;
Dan A. Moore, Sioux City, (712) 252-0020.

DISTRICT 4:

J.C. Salvo, Harlan, (712) 755-3141;
Charles L. Smith, Council Bluffs, (712) 325-9000.

District 5-A:

Mark Otto, Newton, (641) 792-4160.

DISTRICT 5-B:

Marion James, Creston, (641) 782-8597.

DISTRICT 5-C:

John K. Vernon, Des Moines, (515) 246-4511;
David S. Wiggins, Des Moines, (515) 225-4822;
Tim Pearson, Des Moines, (515) 262-9595;
Brian Wirt, Des Moines (515) 288-2500;
E.J. Giovannetti, Des Moines, (515) 244-0111;
Nan Horvat, Des Moines, (515) 286-3688;
Susan L. Ekstrom, Des Moines, (515) 243-6395;
Carol Moser, Des Moines, (515) 237-1561;
David C. Craig, Des Moines, (515) 288-0145;
Anita L. Shodeen, Des Moines, (515) 237-1186.

DISTRICT 6:

Marsha M. Beckelman, Cedar Rapids (319) 297-7515;
Bruce Hauptert, Iowa City, (319) 338-7551;
Darrell Morf, Cedar Rapids (319) 366-7641;
Daniel Y. Rathjen, Tama, (641) 484-5211;
J. Michael Weston, Cedar Rapids, 319-366-7331.

DISTRICT 7:

Patricia R. Cepican, Davenport (319) 355-6478
Jerry Van Scoy, Clinton, (319) 242-2827;
Stuart P. Werling, Tipton, (319) 886-2175.

DISTRICT 8-A:

Michael Moreland, Ottumwa, (641) 682-8326;
Rick L. Lynch, Bloomfield, (641) 664-3188.

DISTRICT 8-B:

Michael Vance, Mount Pleasant, (319) 385-3736.

EX-OFFICIO MEMBER:

James Carney (legislative counsel) Des Moines, (515) 282-6803; David Funkhouser (ABA delegate) Mason City, (515) 423-6223; David Brown (ABA delegate) Des Moines, (515) 244-2141; Diane Kutzko (ABA delegate) Cedar Rapids, (319) 365-9461.

YLD OFFICERS:

Paul Ahlers, president, Webster City, (515) 832-6565; Timothy Semelroth, president-elect, Cedar Rapids, (319) 365-9200; Aaron Oliver, secretary, Des Moines, (515) 244-2141; Debora Hewitt Neumeyer, immediate past president, Cedar Rapids, (319) 294-8293.



Paul H. Wieck II

Wieck Succeeds Courtney

Paul H. Wieck II, Clive, has been appointed Director of Supreme Court Commissions. Wieck will replace John Courtney who is retiring after 22 years of service. Wieck has been practicing law in Osceola with the law firm of Reynoldson, Van Werden & Reynoldson, L.L.P.

Wieck graduated from Iowa State University in 1973 with a Bachelor of Science in mathematics. He received his law degree with honors from Drake University Law School in 1982. From 1982 to 1983, he served as law clerk and executive assistant to Chief Justice W. Ward Reynoldson of the Iowa Supreme Court. He practiced law

with the Reynoldson law firm from 1983 to 1990. In 1990, he was appointed by former Governor Terry Branstad to serve as the Commissioner of the Iowa Department of Public Safety, a position Wieck held until 1999.

In addition to his legal career, Wieck has served in the military and Iowa National Guard. He served in U.S. Army from 1973 to 1979. He is currently a Brigadier General in the Iowa National Guard, serving as Assistant Division Commander, 34th Infantry Division

As Director of Commissions, Wieck will administer the following commissions:

- The Client Security and Attorney Discipline Commission, which con-

ducts investigations and audits of attorneys' accounts, institutes disciplinary proceedings against attorneys, and administers the Client Security Fund, which is used to compensate clients who have suffered a financial loss due to an attorney's defalcation or dishonest conduct.

- The Continuing Legal Education Commission, which accredits continuing education programs for attorneys and monitors attorney compliance with mandatory continuing education rules.

- The Lawyer Trust Account Commission, which makes grants to agencies and programs that provide civil legal services to the poor.



C. Joseph Holland

My January President's Letter about what we lawyers could learn from my friend Al brought a lot of comment, but one particular letter set me thinking. The author (an Iowa State Bar Association member) was quite complimentary of the President's Letter, but said some very unflattering things about the profession:

You are correct law should be a profession...it was when I graduated from L.S. in 1969. I no longer practice, having gone into business for myself. We use a number of lawyers. The profession is riddled with greed and a depressing lack of civility and common courtesy. Lawyers lie and distort and call it advocacy. * * * You express hope that law survives as a profession. It can only with leaders who have vision and principles.

I am optimistic that our profession has those leaders with vision and principle. Most are not leaders in the formal sense, but are the lawyers who show vision and principle in word and act and deed every day and who lead those around them every day. In addition, there are Bar leaders who are bring both vision and principle to the forefront of the profession.

The author of the quote is far from alone in his concern for the profession. Robert Hirshon, President of the American Bar Association, is waging a campaign to educate the profession away from the polestar of the billable hour. I would highly recommend reading his President's Message in the February 2002 *ABA Journal* in which he identifies many of the problems he sees with the billable hour. Hirshon has appointed a Commission on Billable Hours to look at reconciling the economics of practicing law and the core values that define us a profession. You can participate by answering an online questionnaire on billable hours at www.abanet.org/careercounsel/billable.html (you can also find a link at the ISBA web site www.iowabar.org).

The billable hour is a comparatively recent "innovation" in the legal world; it has had unfortunate by-products for lawyers and clients alike. Lawyers have become timekeepers instead of crafting solutions for clients. The billable hour has become a standard for performance and advancement.

Some firms have targets as high as 2,400 billable hours per year. That is over 46 billable hours per week, with no allowance for vacations, holidays, illness, and other personal commitments. Even a lesser requirement leaves too little time for family, friends, recreation, and professional development. Many believe this is a (if not the) source of widespread professional discontent.

One impetus for use of the billable hour as a measure

for legal services came from clients. Those clients wanted a way to know what services were rendered and to control costs, but to an extent the opposite happened. The billable hour encourages extensive rather than efficient use of time. That has resulted in pressure by sophisticated consumers of legal services to keep hourly rates low. There are accusations that this has in turn led to the "quick clock" or put more pejoratively - padded hours.

Arizona Supreme Court Justice Thomas Zlaket has addressed the National Conference of Bar Presidents (NCBP) on this very topic more than once. He believes that the quick clock syndrome exists and has had a corrosive effect on the profession. One little stretch of the truth in reporting hours leads to other and bigger stretchings of the truth. Yet others believe that the teaching of professional ethics in law school as the lowest common denominator of practice has led to a failure to recognize aspiration to higher standards as the real meaning of ethics.

These concerns have taken root during and following the debate over MDPs. That debate brought in to focus what defines us a profession and not just business. What are the core values of the legal profession?

All of this had a direct influence on the formation of the Professional Reform Initiative (PRI) by the NCBP. In last August's *Iowa Lawyer* I wrote a President's Letter taking PRI to task for soliciting written documentation of lawyer dishonesty. The perception by the public, and by members of our own Bar, that lawyers are dishonest should alone be enough to motivate action on the subject. No database of personal and professional shortcomings is needed.

In the September *The Iowa Lawyer* I reported on the PRI session at the NCBP meeting in August in Chicago. I was much heartened to know that the effort was proceeding on a more positive path. At the most recent NCBP meeting in February in Philadelphia I went to another PRI session. The focus of that session was upon the work of The Colorado Bar Association PRI Task Force.

The Colorado Task Force started meeting in late 2001 and is actively working on developing a program to raise the level of awareness and practice among lawyers on issues related to truthfulness. The Task Force is working with various constituent groups in and outside the Bar to find positive and constructive ways to address the issues. There are other similar Bar programs in their infancy. PRI on a national level is intended as a resource for local programs, and its goal is to see programs like Colorado's succeed.

There are those who argue most strenuously that Iowa does not have a problem with lawyer honesty. I agree that the overwhelming number of lawyers in Iowa are honest. Unfortunately we know that some few are not. If you read the Supreme Court disciplinary decisions reprinted in *The Iowa Lawyer* from time to time you can't escape that fact. It doesn't escape the public.

Lawyers are human beings and subject to the same failings as other human beings. However, at some level the

continued on page 6...

The President's Letter

continued from page 5...

members of the three learned professions I mentioned last month are expected to rise above other human behavior when we act in our professional roles. Professional ethics are about aspirations for a higher standard.

Truth is not elastic. Candor is more than simply telling the minimal and literal truth when asked. Candor and honesty are core values of the legal profession. They have been tarnished in the eyes of the public, as certainly as in the eyes of the author of the letter I quoted. PRI has two simple rules it seeks to instill in America's lawyers to combat that perception:

1. A lawyer must always tell the truth in his or her professional dealings; and,
2. A lawyer must never intentionally mislead by act or omission in his or her professional dealings.

You may wonder why I am writing about bad news we hear all too often about our profession, and don't particularly want to hear again. First, I believe that if we can reinvigorate the core values of the profession, we will have a better self image, and practicing law will be more rewarding. More importantly I believe that if we are ever to affect the image of lawyers in the eyes of the public we must take on the task in workable increments.

We can do this personally, day by day, in our professional endeavors. Organized and visible efforts to emphasize the importance of candor, without dwelling on the particulars of anyone's defalcations, can help the profession as a whole to work on our public image, and on the profession's self image. These efforts are but a part of the umbrella concept of "professionalism" which the Bar has been trying to advance for years. Vision and principles are everywhere in our profession. The issues are neither simple nor easy, but they deserve our attention, and our efforts.

File now for IOLTA grants

The Iowa Supreme Court Lawyer Trust Account Commission is now accepting grant request applications under the interest on lawyers' trust account (IOLTA) program.

Approximately \$ 900,000 will be available in the grant period July 1, 2002 through June 30, 2003 for projects providing legal services to the poor in civil cases and other public purpose projects related to improving the administration of justice in Iowa.

The court is encouraging proposals for one-time law-related education projects and seed money requests to establish new programs. Application forms are available by

contacting the Lawyer Trust Account Commission, State Capitol, Des Moines, Iowa 50319. The telephone number is 515-246-8076.

All applications must be submitted to the commission no later than 4:30 P.M., Friday, April 19, 2002. The commission will review the applications and seek approval of the Iowa Supreme Court. Grants award announcements are expected this June.

The Lawyer Trust Account Commission was created by the high court to receive interest on lawyers' pooled trust accounts and use it primarily to provide legal services to the poor in civil cases. Lawyers' pooled

trust accounts hold clients' funds that are so small in amount or held for such a brief period that it is not possible for the funds to economically benefit the individual clients. Previously, attorneys' trust accounts earned no interest.

The first grants awarded under the program were made in June, 1986. Grants totaling almost \$15 million have been awarded to date.

For further information contact Paul H. Wiek II, Lawyer Trust Account Commission, State Capitol, Des Moines, Iowa 50319. Telephone 515-246-8076.

ATTENTION GOLFERS — MARK YOUR CALENDARS Fifth Annual ISBA State Championship Two Person Best Shot MONDAY JULY 15th



THE HARVESTER
Ranked #2 "Best New Affordable Public Course"
in the U.S. by Golf Digest

If you have played the course, you know how truly great it is!

If you haven't had a chance to play it, you have to join us!

Mark your calendars and we will have more information in upcoming bar publications
and on our website — www.iowabar.org

You can check out the Harvester on the web at harvestergolf.com

Special meeting of BOG addresses court reform issues, among others



Here are selected highlights of the special meeting of the Board of Governors of The Iowa State Bar Association held on January 23, 2002 in Des Moines.

- **Family Law Section and Workers Compensation Sections** – ISBA Executive Director Dwight Dinkla reported on the legislation proposed by these sections.

- **ISBA Strategic Planning Task Force** – Bill Scherle and Deb Neumeyer, co-chairs of the ISBA Strategic Planning Task Force, submitted an overview of what was planned for the Task Force’s agenda. The task force plans to research numerous issues before formulating a list of priorities and recommendations for the Association’s long range plan.

- **Special Request - Stay Or Other Temporary Remedies - Chapter 17a** – The genesis of this proposal was the refusal by DOT to continue a DOT stay during the appeal of the District Court’s decision on judicial review of a DOT decision for the termination of an automobile dealership’s franchise by the manufacturer.

The board approved making the following a part of the ISBA affirmative legislative agenda: Section 1, Section 17A.19, subsection 5, is amended by adding the following new paragraph: NEW PARAGRAPH. e. A stay or other temporary remedies granted under this subsection may be continued by the agency or the court during the pendency of an appeal taken pursuant to section 17A.20.

Section 2. Section 17A.20 is amended to read as follows: 17A.20 Appeals. An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court under this chapter by appeal. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

During the pendency of the appeal, the court may continue a stay or other temporary remedies granted under section 17A.19, subsection 5, or, unless precluded by law, the court may grant a stay on appropriate terms or other temporary remedies after a consideration and balancing of all of the factors set forth in section 17A.19, subsection 5, paragraph c.

- **Judicial Branch Budget Position Paper** – The ISBA Judicial Branch Budget position paper “How should the State fund the operation of Iowa’s Judicial Branch?” was presented for approval. The position paper is posted on the legislative page on the ISBA website – www.iowabar.org A motion to table the position paper failed.

- **2001 Court Restructuring Plan: A Preliminary Assessment** – The Board reviewed a preliminary study by Dr. Mark A. Edelman of Iowa State to develop an initial analysis framework of the issue. This study, commissioned by the ISBA, was designed: (1) to assess the impacts of court restructuring decisions implemented since last October;

(2) to measure the possible impact of the Court Restructuring Plan of the Iowa Judicial Council which subsequently was tabled in December; and (3) to identify alternatives to make the system efficient, more productive while rendering quality service and user convenience.

The complete report is posted for members on the ISBA website, www.iowabar.org

- **Clerk of Court Offices and Duties** – In response to a proposal by the Iowa Judicial Council to amend Code section 602.1215 to eliminate the requirement of one Clerk of Court in each county, the Board voted to support a full time clerk of court’s office in every county, but to support a study to determine whether there should be

continued on page 8...

Special meeting of BOG addresses court reform issues

continued from page 7...

a Clerk of Court in every county.

In response to a proposal to amend Code section 602.1215 to provide that the Clerks of Court shall be appointed by the district court administrator subject to approval of the chief judge of the district, a motion was passed to retain the present appointment process until a comprehensive study is done.

In response to a proposal to amend Code section 602.1215 and eliminate the requirement that the clerk be a resident of the county, but require that the clerk be a resident of Iowa, the Board voted to wait for a comprehensive study before any action is taken.

- **Court Administration** – In response to a proposal to amend Code section 602.6107 by replacing the section with language that authorizes the Supreme Court to establish the organizational structure of the judicial districts, including the number of districts and district boundaries, while still maintaining a clerk of court office in each county the Board adopted this resolution:

The Iowa State Bar Association supports full access to the courts by all Iowans. Any proposal to change the current law should be studied closely both as to delivery of services and the total cost (which is presently borne by both State and County budgets) of any change to the taxpayers to determine any overall savings in personnel and physical plant.

Historically and legally the judiciary

is a separate and co-equal branch of government, with Constitutional and statutory mandates. We believe the Legislature must not abrogate its Constitutional duty to adequately fund the judiciary to enable it to perform those mandates.

The determination of Court district boundaries for service delivery and/or trial center locations constitute a political decision that is best left to the people's elected representatives in the Legislature. Pursuant to the Constitutional requirement of separation of powers, the Legislature should not delegate its Constitutional duty to make such geographic and political determinations.

In response to a proposal to amend Code section 602.1217 to provide that the chief juvenile court officer be appointed by the district court administrator subject to the approval of the chief judge, a motion was passed, as part of the motion relating to appointment of clerks by the district court administrator, to retain the present appointment process until a comprehensive study is done.

- **Judges** – In response to a proposal to allow the court to delay filling new or vacant judgeships (including magistrates) for budget reasons, the Board voted to oppose this amendment.

- **Filing Fees** – Legislative counsel reported that listed in the State of Iowa Estimated Condition of the General Fund Financial Summary was a statement that read: **Revenue propos-**



Official Business

als, Filing Fees: Raise more than \$2 million annually in court fees for small claims and civil actions. The Board voted to support a fee increase only if there is a commitment from the Legislature that the Legislature will not cut the Judicial Branch budget.

- **Miscellaneous** – A proposal has been made to amend Code section 602.8108(4) to eliminate the allocation of money for alternative dispute resolution and domestic abuse, and to eliminate the prohibition against using the funds for ICIS. Roger Stetson, chair of the ADR Section, commented upon the proposed changes. Stetson indicated that the ADR program in Polk County would not be affected because it is currently self-funded but that some of the smaller ADR programs around the state that in past years have received ADR grants from the court could be negatively impacted. The Board discussed whether the Bar Association should take a position to encourage the courts to keep the funding for ADR in its budget. The Board agreed to remain neutral on this legislative item.

A proposal has been made to amend Code sections 633.480 and 633.481 to relieve the clerk of responsibility of preparing change of title documents and to require fiduciaries to prepare and file "Court Officer Deeds" with the County Recorder. This amendment was discussed but no action was taken.

A proposal has been made to eliminate the participation of the foster care review board in delinquency proceedings. This proposal was discussed but no action was taken.

Lawyers who serve in the Iowa Legislature

"When I finish my working career, I would like to have done more than complete one more tax return, write one more will, or try one more case." Senator David Miller

A note from President Joe Holland

Recently I asked our Iowa lawyer legislators to write a paragraph or two explaining why they ran for elected office and serve, and how they can do that and still have a career as a lawyer.

It is a very busy time, but several of our lawyer legislators were good enough to respond. Each of them has a different perspective, but I believe that the quote printed above from Senator David Miller capsulizes what truly motivates each of our Lawyer-Legislators.



Senator Larry McKibben

Having served my community in many volunteer capacities as well as on the school board, the opportunity to be a Senate candidate in 1996 was a logical extension of my previous public service.

I have always believed that lawyers have unique skills and a resulting spe-

cial obligation to do an extra measure of public service. Further, I can assure you that those skills are very much needed in the Iowa Legislature.

Our firm has always had a culture of involvement in our community and the bar association. I certainly could not do this public service without the many "new technologies" which are available, as well as the strong support and help of my partners.

My time in the Iowa Senate has been a truly rewarding experience. Even in tough times with difficult issues, my clients and constituents regularly express their appreciation to me for the time I spend serving Iowans as a state senator.



Senator Jeff Lamberti

Being a lawyer legislator does involve a certain amount of personal and professional sacrifice. At the same time, it is possible to balance our ser-

vice in the Legislature with our legal careers. We have adopted a schedule which is more family and business friendly, allowing us to be in our office on Fridays and Monday mornings. With the additional support of my partners, and quite a few working weekends, I have been able to maintain my practice.

While there are some sacrifices, the rewards are many. As legislators, we make decisions which impact the lives of all of our citizens, hopefully in a positive way. Although there are only fourteen of us, lawyer legislators hold many key positions in the Legislature. Few important decisions are made without the input of lawyer legislators.



Representative Chuck Larson

Serving in the Iowa Legislature has provided a tremendous opportunity to work on growing our economy,

continued on page 10...

Lawyers who serve in the Iowa Legislature

continued from page 9...

making our schools number one in the nation, and making our communities safe from crime.

The polestar of my efforts has been job creation and making Iowa more competitive for small business. I believe strongly that a prosperous economy where Iowans have excellent job opportunities results in a reduction of many of the social problems we face . . . domestic abuse, substance abuse, and crime.

Attorneys play a critical role in the development of sound legislation and policy. As chair of the House Judiciary Committee, I use many of the skills that I gained as a prosecutor. Now working as general counsel for the ESCO Group, I have an entirely different legal perspective that I also use regularly in the legislature.

Although balancing family responsibilities, work and the legislature can

be challenging, it is without a doubt very rewarding. I strongly encourage more attorneys to run for and serve in the Iowa Legislature. Please feel free to call me to visit about it. My office telephone number is 319-377-6655 and my email address is: **chuck@chucklarson.com**



Senator David Miller

As an attorney who has practiced in small town rural practice for 27 years, I see legislative service as an opportunity to do public service and use my legal experience to help make Iowa a better state. Having served three years in the Iowa Senate, I can attest to the contribution attorneys make to the legislative process. Unbeknownst to many people, lawyers are not represented very well in the Iowa Legislature. We only have 14 attorneys out of 150 legislators.

Many times questions arise in committees and while drafting legislation where an attorney is able to give some valuable insight. At the end of the day, it may not be economically rewarding, but it is rewarding to contribute and give back to our state.

As I have said before, when I finish my working career, I would like to have done more than complete one more tax return, write one more will, or try one more case.



Representative Pat Shey

On a hot sunny day in 1968, I shook hands with Senator Eugene McCarthy in Corning, Iowa during his run for President. I marveled that I actually shook the hands of someone who could — and I stress the word could — become president of the United States. Since then, politics and public

policy is all I ever wanted to do.

I have been lucky to serve in numerous ways. After law school, I managed Ed Kelly's campaign for attorney general in 1990, served as attorney to a federal agency and then as legislative aide to Senator Grassley. I returned to Iowa, and served three years as an assistant county attorney. Just a year after relocating to Cedar Rapids, Ron Corbett resigned — and I took the plunge into politics.

Law and public policy have always been a natural fit — theoretically at least. While the strength of Iowa's system is our "citizen legislature," the part-time nature of the job means we must balance our professional and public lives — yet still make time for family. I serve as general counsel for a Cedar Rapids company which has been very flexible, but I often-times find myself returning mid-week to work; coming in on weekends; or working late at night in Des Moines on work-related matters. Most of us need our "day jobs."

Despite the demands on my time, I do not think we would be better served by a professional, full-time legislature.

While most people think that all legislators are lawyers, really quite few serve. Lawyers are instant leaders in the House, since many of us have unique and practical experience in criminal law, probate, business transactions; we have an appreciation for the language of the law; and have experience in negotiating, resolving differences, and articulating a point of view.

I know that my service here has made me a better lawyer, and I encourage all lawyers to seriously consider serving the state in this way.

Iowa law half a century ago — Enjoy the view from where we are today

There is nothing like the past to show us the future. Looking back is not only educational; it is an exercise in sentimentalism that soothes the soul's need for friends and events past forever. The older we get, the more we appreciate what we have been through, so here we offer you a reflection on the practice of law in Iowa in the early 1950's.

If you were there in those days, probably just getting started in your career, enjoy the memories. If you're too young to recollect those "simpler" days, you will enjoy your ride down our memory lane and most likely appreciate more what you have today by comparison.

We are indebted to several veterans of 50 and more years of Iowa law practice who have contributed to this nostalgia trip. We offer our sincere thanks and wish them many more years of contributing to the legal welfare and distinguished history of our state.



*By Judi Stout
ISBA Executive Assistant*

"As is the custom, an open house and stag were held the evening prior to (the meeting)...." and "....a women's party was held, at which time there was a featured carnival on Christmas crafts...." So reported the ISBA News Bulletin summarizing two popular social events of the 1950's Annual Meeting.

Just what was taking place in "the bowels of the bar" during the years from 1950 to 1954?

The Bar went on record against socialized medicine: "**NOW, THEREFORE, BE IT RESOLVED** that the Board of Governors of The Iowa State Bar Association does hereby go on record as opposed to legislation which

will subject the practice of medicine to federal control and regulation and expresses its unqualified opposition on principle to socialized medicine."

Nelson A. Rockefeller of New York City, not yet the state's governor, addressed the 1951 ISBA Annual Meeting on, "National Security in a Time of Crisis," followed by Iowa's Gardner Cowles, then of New York City, a distinguished publisher who spoke on, "Public Information and National Security." The country was on high alert because of the upheaval in Korea and the Bar appointed a 21-member Special Committee for Assistance to Armed Forces, "[with] the purpose of providing gratuitous legal advice and counsel to all individ-

uals upon or after their entry into the armed service." (The repeating of history is truth!)

Wiley Mayne, president of the Junior Bar, was overseeing a busy bunch of young lawyers that were producing a national award winning radio program, "*The Iowa Roundtable*." It was a public service program organized and staffed by the ISBA and produced with WHO radio. The program aired its informative 419th show in June, 1950. Formatted as a "call-in and ask the experts" half hour, it was not only educating the public but causing a stir with some of the subject matter discussed. However, "never mind"

continued on page 12...

Orville W. Bloethe: A country lawyer in the 1950's



Having graduated in 1947 and after practicing law for several years, the one concern of everyone was "income tax." My thinking was, "This is

what I better know well." The Bar Association rose to the occasion and the TAX SCHOOL became a "must" for the country lawyer. I missed one in 55 years and felt like a "bum" wondering the rest of the year "what did I miss that may have hurt my clients".

Hotel Fort Des Moines was the site with hallways crowded and a line for the rest room. The "jewel" of the school was career agent, Frank Blaser. He knew everything about taxation

and would lay it out with enthusiasm that made me take meticulous notes, such as "do this because." I strived never to miss anything. I would take home my notes of Frank and other speakers. Frank's were special since they were what we actually did.

On the Thursday afternoon, Walter Willett of Tama would get one or two trucks, bring the tax forms to the lobby of the Fort, and lay out the dozen or so forms on tables. We would line up with our boxes brought to the school for this purpose and take the number we needed. We would carry the heavy load to our car parked in the lot just to the east. Some two dozen forms then served the same purpose as a few hundred now.

I would sit near the front so I never missed a word and then took my notes home and typed them up by subject. A fellow lawyer in Marengo always wanted my "notes." I would do this for him and then thought, "Why not share with the other lawyers in the County?" which I did. Then I added a page of "often used tables, charts, and numbers." This was the "birth," so to speak, of what is now the Bloethe, Bibler & Wilmarth TAX MANUAL, some 600 pages shared with the IRS each year. One of the best, if not the only Manual produced by any Bar Association.

Enjoy the view from where we are today

continued from page 11...

because the Junior Bar was just as daring and vibrant then as the YLD is now. A little trouble didn't stop the broadcasts, only fueled some uneasy "fires."

The association's now-familiar official seal was designed and adopted in this period. For the hefty sum of \$8.50, a lawyer could purchase a rubber stamp of the seal and use it on a firm's own stationary. If a stamp pad

were needed, that was an extra fee.

There were 2,123 ISBA members served by the bar headquarters in 1950. William F. Riley, then president, summed it up: "No more than mention of the value of our headquarters office is essential. Its complete and ready response to every request from officers, committees and members provides daily proof of the wisdom of

its establishment in 1939." In its appreciation for the ISBA staff, the board was exploring the possibility of air conditioning. Before making this expensive decision, however, a subcommittee was appointed to meet at a local theater where air conditioning had recently been installed and to speak with the theater owner on the

continued on page 13...

Representative figures from five counties across Iowa in 1950

BLACK HAWK: Population 79,946. This county is usually Republican, and the residents belong chiefly to the Protestant and Catholic churches, and a small number to the Jewish. Waterloo is the center of activity where there is located a large amount of industry which provides the principal source of income and employment. Business conditions in this county are good. Corporation work may be found on the list of common fields of practice, along with insurance, domestic relations, personal injuries, and probate. Though a starting lawyer would not be assured of a living income the first year of practice, his prospects are fair. He is advised to start with an older lawyer. Office space is scarce for the 75 attorneys, only 10 of whom are under the age of 35.

DALLAS: Population 24,649. The predominant political party is Republican with Methodists, Friends Church and Catholics being the leading religious groups. Americans and Italians are the most prominent racial classes. The principal businesses are agriculture, retail sales businesses and brick and tile plants. Business conditions are good but are declining because the people have spent their surplus funds obtained during the high price war period. Probate is the most common field of practice followed by real estate, taxation, domestic relations and personal injuries. The average income for the first years is between \$1,500 and \$2,500, and for those lawyers practicing more than 10 years it is \$3,000 to \$5,000. Standard references are available in a county law library bought by the Board of Supervisors. There are six lawyers under the age of 35 in this county, 12 between the ages of 36 and 60 and four over the age of 60. Conditions are poor for a young lawyer starting in this county and he would not be assured of a living income during the first year. Office space is scarce and one should attempt to locate with an older lawyer if commencing practice here.

MAHASKA: Population 26,485. Politically the county is Republican, with Protestant and Catholic churches handling the religious needs. Ancestry of the people flows from the Dutch, Welsh, and English nationalities, generally speaking, with farming, retailing, small-scale manufacturing and livestock marketing the principal sources of employment. Coal mining is also carried on in the county. Business conditions are good and generally steady, although affected somewhat by national trends. Principal fields of practice, in order of importance, real estate practice, probate, taxation, domestic relations, and personal injuries. Coal leases and rights there-

under also afford a fairly important bit of the legal work. Law libraries available are both county and private with the complete reporter system, American Jurist, Corpus Juris, USCA and many other texts being available. A total of 24 attorneys are practicing at present, with six under age 35. Prospects for the young lawyer are described as fair, with no assurance of a living income during his first year. He would be advised to start practice with either a young practicing lawyer or with an older practicing lawyer. Office space is scarce.

SIOUX: Population 27,209. The county is traditionally Republican. Protestant and Catholic churches serve the communities religiously with no particular racial group characterizing the population as a whole. The main source of employment rises out of farming with general conditions described as good, which fact is attributed to good crops and good bank management. Principal fields of practice are probate, real property, taxation, insurance, and mortgages and foreclosures, in order of importance. Financing is another field of practice in the county, also. Both county and private law libraries are available, with standard reference works included. A total of five attorneys are in active practice in the county with three of them under age 35. Prospects for a young lawyer are listed as poor, however, with no assurance of a living income during the first year of practice. He would be advised to start practice with an older lawyer; office space is scarce.

WORTH: Population 11,449. The Democrats lead the way here with Lutheran, Methodist and Evangelical being the predominant religions. County is made up of Norwegians, Germans and Bohemians. Farming, merchandising and railroading are the main businesses. Conditions are reported good and steady due to parity price support. Probate, real property, taxation, collections and criminal are the five main fields of law practice. The only law libraries available are private ones. There are eight lawyers with one being under 35, four being between 35 and 60 and three over 60. Prospects for a young lawyer are poor and he would not make a living income during the first year. Office space is scarce but he is advised to start alone if at all possible. There is some competition from Mason City and Albert Lea, Minnesota, in this county.

See the complete **1950 IOWA COUNTY SURVEY RESULTS** on the ISBA website www.iowabar.org

Enjoy the view from where we are today

continued from page 12...

pros and cons of cool air. Apparently satisfied of its real benefits, air conditioning became a headquarters reality in 1950.

Nor did television escape the interest of the board. The Bar was comprised of men with an eye on the future and on the TV screen, as well. A Public Service Sub-committee was commissioned to prepare a 30-minute program for use on television because "...the field of television merits the ISBA's continued study and experimental use." The program's subject matter could not amicably be agreed upon but the board generously allowed \$500 to produce a program anyway, never mind the content.

Evidently, a constant bumping of two professions was causing heated vibrations in 1950 resulting in an agreement with the Iowa Society of Certified Public Accountants, devising a formula of harmonious practice and conduct between the two.

It stated, in part, "It is the belief of both professions that each is capable of self-discipline and of any necessary disciplinary measure within its own

body. Each profession has or will create an unauthorized practice committee. In the event of a determination by one such committee that the privileges, scope and practice of the profession of that committee is being invaded or usurped by persons of the other, the corresponding committee of the other profession shall, in good

faith, make adequate investigation of such complaint and, within a reasonable time, report, in writing, to the

complaining committee of its findings, action taken, if any, and recommendations as to disposal."

Two years later (in 1952), however, the ISBA Unauthorized Practice Committee was reporting to the board that the committee was, "...constantly vigilant in attempting to prevent accountants from the practice of law, and particularly with reference to income tax practice." And then, shock of all shocks, the ISBA's and the Iowa Society of Certified Public Accountant's agreement dissolved because the two professions couldn't agree on "what was the practice of law."

The Unauthorized Practice Committee was also spending "considerable amounts of time and effort" in attempting to eliminate the unauthorized practice of law from the activities of an engineering company's contracts with counties on acquiring right-of-ways for highways in Iowa's fertile black soil.

The committee also said it would certainly appreciate it if the board would take a look at the Bars of Texas and Oklahoma where both recently

employed a full-time lawyer who did nothing but investigate complaints against the members of the bar. Could Iowa consider such a paid position?

In 1950 dues were \$15 dollars per year – just \$7.50 for those who had been lawyers four years or less. Oscar Hale from Burlington was Chief Justice, William Avery Smith received the Award of Merit, and 850

lawyers attended Tax School. The ISBA was popping! Voluntary members of the association were 95 per-

cent of the practicing Bar and Iowa had the highest percentage of membership of any voluntary association in the United States.

The 1950 ISBA Foundation president was Burt J. Thompson of Forest City. The Foundation had \$60,000 in its treasury but not at all were satisfied with that amount. Thompson told the Board of Governors that, "Peaks are not scaled by coasting – nor will we make anything significant out of this enterprise unless many are willing and anxious to dedicate some part of their substance to the effort.

"We are in a period of rapid change. Many concepts which we believed fundamental and indispensable a few years ago are being swept away. No thinking person can believe that because the individual in

continued on page 14...

"We are in a period of rapid change. Many concepts which we believed fundamental and indispensable a few years ago are being swept away. No thinking person can believe that because the individual in America has enjoyed the greatest degree of freedom and opportunity in the world, that this situation will continue indefinitely without the need of our concern."

— Iowa State Bar Foundation
President Burt Thompson in
1950

Enjoy the view from where we are today

continued from page 13...

America has enjoyed the greatest degree of freedom and opportunity in the world, that this situation will continue indefinitely without the need of our concern. Recent history proves the contrary. A strong and united legal profession, well implemented and directed by men of ideals and courage, is the goal of the Iowa State Bar Foundation.”

In other words, “show me the money!”

The selection and tenure of judges was another hot issue. A plan was being devised to take the selection of judges out of politics, “...to assure the bar association a hand in the selection of judges and to indirectly assure a judge who is performing his duties and functions properly of a more secure tenure.”

ISBA President William F. Riley addressed the subject in 1950: “The public must be confident always of the independence and integrity of the Court. It is our duty to see that only those who sit are those who have the training, character, courage and wisdom to judge fairly and well. The old test is still good – it is for the judge to do justly, to love mercy, to walk humbly, to love his neighbor, his country and his God. It is a sad commentary that in the years from 1932 to 1944, twelve years - 32 different men sat on our nine-member Supreme Court. They were splendid men, all of them, but in a period of twelve years we replaced the entire membership of the Court three times. In not a single election was their retention or selection an issue. They were the unfortunates and, I fear, unwilling victims of political tides upon whose ebb and flow they were the unhappy flotsam and jetsam. Our Board took action under President (Roscoe P.) Thoma at Sioux City in 1948, to authorize a committee to study a solution, a means of avoiding a repetition of this unfortunate situation.” The years following 1948 evidenced a well fought battle followed by a sweet victory for Iowa’s judicial future, courtesy, in great part, to the lawyers of the Bar.

The judiciary wasn’t the only recipient of the “wisdom of the legal minds” as the Iowa Association of Chiefs of Police and Peace Officers approached the men of law for an endorsement of the uniform traffic ticket. The Board vote was unanimous in its agreement resulting in a more equal treating of the public and a speedier handling of tickets. No pun intended.

A Committee on Divorce was established for the protection of the involved children because “...children (are) the future of Iowa and juvenile delinquency (is) becoming a problem within the State.” The core issue of

broken families was to be “...explored and acted upon for the sake of the children”.

In 1950, the princely sum of \$12.50 entitled a member to an entrance badge to the 1954 annual gathering, one for his wife, too. Also included

continued on page 15...

Rollie Grefe: Taxes made the bar CLE’s work



I was a member of the ISBA Tax Committee during this period and I was the chair for two or more years. The December Tax School attracted increasing numbers of members and surpassed the annual meeting in attendance. It was held at the Hotel Fort Des Moines and Frank Blaser, who was then the Iowa director of the Internal Revenue Service, would walk us through the preparation of Federal Form 1040.

I think it was during this period that we started inviting a nationally recognized tax attorney from Washington, D.C. to take us beyond the preparation of Form 1040 so as to anticipate audit problems and prospective changes in the tax laws.

If my memory serves me right, Walter Slowinski, of Covington and Burling, honored us with his presence and expertise during two of those years.

The Association used the Tax School as a member benefit in attracting new members and it was the forerunner of today’s CLE and Section activities.

I was still an associate in a Des Moines law firm in those days and Saturday office hours were expected as well as evenings and Sundays during the tax preparation season which then ended on March 15. How times have changed.

Enjoy the view from where we are today

continued from page 13...

was a volume of workshop outlines, tickets to Wednesday's party, tickets to Thursday's "Sip and Snack" session, a ticket for his lady to an Art Center Tea, and a ticket to a Des Moines Bruins baseball game at Pioneer Memorial Stadium. What a deal!

In 1950 the ISBA spent \$354 for headquarters office supplies, \$379 for telephone and telegraph, \$1,553 for rent and electricity, and ended up with a net income for the year of \$4,696.12. The financial report was signed, sealed and delivered by Edward H. Jones, Secretary to the Board and the Executive Director of the ISBA. Total operating expenses for 1950 were \$22,787.07.

The autumn of 1949 had brought about a big change in the legal community as the Supreme Court, by rule, imposed new standards of admission to the Bar of Iowa. Now candidates presenting themselves were required to be graduates of an accredited law school. "Reading the law" with the assistance of a member of the Bar and taking a test to enter practice had become a thing of the past.

The following year, a pamphlet, *Confidentially, Mr. Attorney*, was prepared by the ISBA's Public Relations Committee and was distributed to all of the students of both the Iowa and Drake Law Schools. It was written "...so that the students could be made conscious of the necessity of good public relations as well as receiving instruction on the theory of the law." Professionalism was a big concern with the professionals of the day, lawyers, doctors, clergy. Some even worried about a downward spiral of professionalism and wondered if there would be professionals left in the next century.

A 1950 economic survey of sorts was conducted and published by the ISBA Junior Bar, with the help and at the urging of the American Bar Association. The survey was aimed at new

attorneys and their chances for survival. Results from four selected counties follow. If your county is not listed and you are interested in its 1950 results, all 99 counties are listed on the ISBA website – www.iowabar.org If you're not ready for web participa-

tion yet, call the Bar and we will mail you your 1950 county results.



Wiley Mayne: Recollections of 1950

As I recall, a very eminent British barrister was the speaker at the ISBA 1950 Annual Meeting. William F. Riley had not been in favor of this selection but the invitation had been sent and accepted before Will became president [of the ISBA].

During his speech, the Brit made a remark which could be considered demeaning and offensive to the Irish. Will Riley, who was seated next to the speaker and who was of Irish descent, was seen to turn visibly flustered and red at the offensive remark which those present considered in very bad taste in Will's presence.

Will Riley was very supportive of the junior bar as [ISBA] president. He was the first president to invite the Junior Bar president [who was Wiley Mayne] to all meetings of the Board of Governors and this courtesy and recognition was continued by subsequent Bar presidents.



William H. Englebrecht: The way it was in 1951

Most of the attorneys admitted to the Bar in 1951 were veterans of World War II and had put their education on a fast track in order to make up for the years spent in service.

There are 5,000 more lawyers belonging to The Iowa State Bar Association today than there were in 1951. The starting salary for associates in the general practice in 1951 was between \$200 and \$300 per month.

Judges were elected rather than appointed by the governor; most counties had four terms of court per year and there was very little pre-trial discovery as we know it today.

The most famous trial in 1951 was the Rosenberg espionage trial, and the beginning of the Joe McCarthy hearings on alleged Communist infiltration of agencies of our government.

Harry Truman was President and Albin Barkley was vice president. The Korean War was in full swing and President Truman removed Gen. McArthur from his command.

William Beardsley was governor and Robert Larson attorney general; Bourke Hickenlooper and Guy Gillette were our U.S. Senators and Henry Graven and William Riley were our federal judges. Among the members of the Iowa Supreme Court were Justices Bliss, Garfield and Winnerstrom.

T.M. Ingersoll of Cedar Rapids was President of The Iowa State Bar

Association in 1951 and Nelson A. Rockefeller of New York City was the principal speaker at the Annual Meeting. George C. Murray received the Fifth Annual Award of Merit and Justice Tom C. Clark of the U.S. Supreme Court gave an address in which he complimented The Iowa State Bar Association as being the finest voluntary Bar in the nation and challenged the Bar to work towards changing the method of selection and tenure of Judges – which was done.

The first computer, designed for commercial use, was called Univac, and ushered in the new computer age, and the first thermonuclear test was conducted at Eniwitok Atol in the South Pacific.

The cost of living was extremely low by comparison:

1. A Palm Beach suit sold for \$30 and a pair of shoes for \$5.

2. You could purchase a 1951 Dodge Convertible (with heater and turning signals) for \$2,126; and the Henry J automobile (manufactured by Kaiser-Frasier) could be purchased for \$1,321.00 FOB Willow Run.

Iowa was in the liquor business and had a 179 state-owned liquor stores.

Passenger transportation by railroad was rapidly declining and aircraft transportation was on the upswing.

Some would refer to the above as “the good old days,” but I think you will agree they were not so good as some might have you believe. So

much for 1951.

THE WAY IT IS – 2001

With the benefit of hindsight, experience and a little research of the legal profession, the following are some of the major changes that have profoundly affected the practice of law in the past 50 years:

1. **DEMOGRAPHICS:** The enormous growth of the population. The number of lawyers has more than quadrupled – from 220,000 in 1950 to 860,000 in 1995. This has created a seller’s market for law school graduates. Employers now interview at law schools and pay outrageous salaries (as much as \$100,000 to start) for top graduates in major metropolitan law firms. Gone are the days when law firms fixed salaries and set minimum fees because law was a profession, and not a business subject to anti-trust laws.

2. **DIVERSITY:** Another change is the increase in diversity of the profession. Women have become a substantial force, and so have minorities, but to a much lesser extent. As I recall, we had one woman in our graduating class in 1951. What a contrast today – the increase in the number of women entering the profession is best shown by the fact that this past fall more than 50 percent of the students entering law school classes nationwide were women. Times have changed for minorities. In 1998-99 over 9,000 African-Americans were enrolled in law schools, an increase of more than 20 times in the last 34 years.

3. **NEW AREAS OF PRACTICE:** Statutes and administrative regulations now play a much bigger part than they did in 1951. As a profession we are now responsible for new fields of practice such as environmental law, occupational rights, age and sex discrimination, sexual harassment, mental health, computer, and internet, to name only a few.

continued on page 17...

William H. Englebrecht: The way it was in 1951

continued from page 16...

4. **TECHNOLOGY:** The **information explosion and technological changes** have created a revolution within our profession. More and more information keeps spilling out from many sources, which leads to increased specializations. Lawyers now know more and more about less and less, and law firms devoted to a particular specialty are now merging to become departments in large all-service law firms. There soon will be electronic filings with the courts and I understand that there is an Internet law school that has just come online.

5. **NEW FORMS OF PRACTICE:** Corporate law firms that were small, or even non-existent when we graduated in 1951, have grown into full-size firms to deal with increased government regulations and now handle their legal problems in-house. **Pro bono service for the poor has become a large and very welcome development.**

6. **LAW AS A BUSINESS:** The practice of law has **become more a business** and is less formal for many reasons. For instance, there is more competition because of client pressures and shifts. Corporate general counsel require firms to bid for business – a practice that would have been unthinkable even a few years ago. In addition, lawyers may truthfully advertise their services. This practice brings a mixed bag of benefits and drawbacks. There is also increased **mobility and a decreased sense of loyalty.** Despite long-standing relationships, clients are more prone now to shop around for the best prices and best services-objectives that are often incompatible.

7. **MULTI-DISCIPLINARY SERVICES:** Arrangements are being made with other professionals to satisfy client-driven desires for multi-disciplinary services – a so called one-stop shop for legal and other services. However, the ABA at its Annual Meeting in July, 2000 rejected the concept of

multi-disciplinary practice and called for lawyers and bar associations to preserve the core values of the profession in the interest of the public we serve.

These are some of the things that come to mind. Many would say there is too much litigation that is often frivolous and too expensive and that there are abuses in the assessment of

punitive damages and serious claims of lack of professionalism and stability.

With all of its imperfections, the practice of law, in my judgment, remains a noble profession and this must never change. Would I do it again? You bet!!

Big changes coming to ISBA Lawyer Referral Service

Referrals Online not far off –

Have you recently established your own law practice? Have you been in practice a while and want to expand your client base? Or do you have clients whom you are unable to help?

The ISBA's Lawyer Referral Service (LRS) can help you with all of these questions. Operated by The Iowa State Bar Association, the LRS has been a public service and member benefit for 25 years. It refers thousands of clients each year to attorneys who are members of the ISBA service.

Conversely, if you are uncertain about where to send a potential client, just give them The Lawyer Referral Service number or the ISBA site – www.iowabar.org – and let us do the rest.

An American Bar Association study showed that there might be as many as 3,000,000 Americans who call lawyer referral services each year. That's a lot of potential clients.

"The results of (the) survey show that thousands of moderate-income clients are turning to lawyer referral services operated by their local public service bar association when they need legal advice," said John E. Busch of the ABA's Standing Committee on Lawyer Referral Service. "The average legal consumer may not need legal advice more than once or twice dur-

ing their lifetime. LRS is an invaluable service in their communities."

The ISBA Lawyer Referral Service receives an average of 15,000 calls a year or more the 65 calls each business day. The public is made aware of the service through Yellow Pages advertising as well as brochures available at the courts and court clerks' offices, and now we have the same information posted on the Internet!

The service refers callers to attorneys on a rotating basis, taking into account area of practice and geographic location.

It is a client's responsibility to call the attorney to whom they have been referred and schedule an initial consultation.

NEW ONLINE LAWYER REFERRAL SERVICE STARTS SOON!

Lawyer referral dues will include posting a short biography, a picture, education data, fields of practice, and possibly a link to the attorney's own web page, if available.

The Association will continue to do maintenance and promotion/marketing of this online service.

The current phone service will continue allowing the public without access to a computer or the Internet to be served by participating lawyers.

Under the new program, the \$25 "per referral charge" to clients of ISBA will continue but the \$8 rebate charge and "percentage per case" now in effect will be dropped. That means an end to all the paperwork-intensive reporting requirements. Both of these developments will make it easier for the attorney and ISBA staff.

The LRS panel membership dues for a one-year period will be \$100.

There are some other requirements

1. Be a member in good standing of The Iowa State Bar Association.
2. Have no disciplinary action

pending in any bar association.

3. Maintain professional liability insurance in a minimum amount of \$100,000 per occurrence.
4. Agree to abide by the rules and regulations of The Lawyer Referral Service.

If you would like more information regarding membership in The ISBA Lawyer Referral Service, or to request an application for membership, call Mary Hill at 800-457-3729 or 515-243-3179 or e-mail her at mhill@iowabar.org

USURY

The Iowa Department of Banking's website posts the latest usury rate and a wealth of other financial information that is obtainable all day, every day of the year.

Just go to <http://idob.state.ia.us> and click on "banking" and then on "rates" for the very latest from state regulators.

Be sure to save the site in your "favorites" file on your browser so you can easily return to the site as often and whenever as you wish.



Caveats on photocopying copyrighted materials

By Kirk Hartung

Photocopying is a daily activity in the business world, including law offices.

Harper & Row, Publishers, Inc. v. Nation Enterprises, 471 U.S. 539, 561 (1985) (emphasis added). Thus, whether the defendant is a profit or

the copyright owner, and cannot be a substitute for purchasing books or consumables, such as work sheets.

Are you or your client committing copyright infringement by making photocopies?

The 1978 Copyright Act gives the copyright owner five exclusive rights, one of which is the right to make copies. Thus, any "copying," including photocopying, of the original elements of a copyrighted work is technically an infringement of the work, unless express permission is obtained from the copyright owner.

The five exclusive rights are subject to several exceptions, as set forth in **17 U.S.C. § 107**. Most are very narrow, including "fair use."

Fair use is an equitable doctrine. There are not certain acts that constitute fair use; instead, it is the circumstances surrounding the acts that will influence a fair use analysis. Section 107 lists four factors to consider in evaluating fair use, though these are not exclusive.

A. The Purpose and Character of the Use, Including Whether Such Use is of a Commercial Nature or is for Non-profit Educational Purposes

This factor favors the copier if the alleged infringing use is either transformative or non-commercial. A transformative use is one that builds upon the copyright owner's work to further society's knowledge. As a practical matter, an exact duplication (such as a photocopy) is rarely transformative.

In the past, parties have argued that by virtue of their nonprofit status, their copying was non-commercial. The Supreme Court has stated, however, "the crux of the profit/nonprofit distinction is not whether the sole motive of the use is monetary gain, *but whether the user stands to profit from exploitation of the copyrighted material without paying the customary price.*"



nonprofit organization is irrelevant. The question is really whether the defendant stood to profit from the exploitation. Therefore, one should not be under the misconception that it will be favored on the first factor because of its nonprofit status.

Educational fair use is very limited. Generally, the copying must be limited in length and in use, must be at the spontaneous inspiration of the teacher such that there is not reasonable time to obtain permission from

B. The Nature of the Copyrighted Work

This factor calls for a recognition that some works are closer to the core of intended copyright protection and should not be as freely copied. For works that are more factual in nature, as opposed to more creative and original works, the copier is usually given greater latitude in copying. For example, a compilation of statistics would be more factual than an editorial article.

C. The Amount and Substantiality of the Portion Used in Relation to the Copyrighted Work as a Whole

Here, the fair use analysis requires both a quantitative and qualitative approach. First it must be determined what portion of the copyrighted work

continued on page 20...

Caveats on photocopying copyrighted materials

continued from page 19...

was incorporated into the copier's work. Even if the copier took only a small amount of the copyrighted work, the qualitative factor may still favor the copyright owner if the appropriated material was the heart of the copyrighted work.

D. The Effect of the Use Upon the Potential Market For or Value of the Copyrighted Work

The Supreme Court has consistently stated that this is the single most important factor. The Court has interpreted this factor as looking at market substitution. Although fair use requires a "totality of the facts" inquiry, the Supreme Court has consistently emphasized protecting the copyright owner's economic interests. If the copier, in making a copy, supplants a

sale on the market, the copier will have a difficult time proving fair use.

One illustrative case may give rise to consideration by law offices and other businesses. The question in *American Geophysical v. Texaco*, 802 F. Supp. 1 (S.D.N.Y. 1992), was whether it was fair use for a profit-seeking company to make unauthorized photocopies of articles published in scientific journals for use by the company's scientists engaged in scientific research. The court held that such photocopying was not fair use primarily because Texaco avoided buying multiple magazines.

E. Other Factors

The following factors may also influence a fair use analysis: (1) whether permission was sought; (2) whether an efficient means for get-

ting permission exists; (3) whether the use was a productive use; (4) good faith and fair dealing; and (5) whether the use was incidental.

The Copyright Clearance Center, Inc. is the largest licensor of text reproduction rights in the world. CCC provides a consistent way to facilitate compliance with the copyright laws in both print and electronic formats. For an annual fee, CCC grants permission to clients to reproduce copyrighted materials, and makes royalty payments to the copyright owners on behalf of the clients. CCC covers approximately 1.75 million publications for more than 9,600 publishers world-wide. For additional information see CCC's website at www.copyright.com

Supreme Court requires new numbering format

The fourth edition of the Iowa Court Rules, approved by the court last November and effective last month, changed the rules numbering format.

With two exceptions (the Iowa Code of Professional Responsibility for Lawyers and the Iowa Code of Judicial Conduct), all of the rules have been renumbered in a format similar to that used for the Iowa Administrative Code. The renumbered rules provide for a unique identifier for every rule and follow a consistent internal numbering scheme.

Renumbering will result in an easier conversion of the rules to electronic formats, will make it easier to create computer links to court rules, and will have legal research advantages.

A renumbered rule will consist of the following parts:

Chapter	Rule	Subrule	Paragraph	Subparagraph
1.	1701	(2)	(c)	(1)

A citation would appear like this:

Iowa R. Civ. P. 1.1701(2)(c)(1)

These common abbreviations may continue to be used when citing to the following rules:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 32	Iowa Code of Prof'l Responsibility
Chapter 51	Iowa Code of Judicial Conduct

All other rules will be referred to by using the preface "Iowa Court Rule," and in a citation the abbreviation "Iowa Ct. R." is used before the rule number.

For example, the first rule in chapter 8 (rules of juvenile procedure) will be cited as "Iowa Ct. R. 8.1" and the first rule in chapter 12 (rules for involuntary hospitalization of mentally ill persons) will be cited as "Iowa Ct. R. 12.1."

Futurist startles bar leaders

By Alan Fredregill, ISBA President-elect



Seventy-five percent of the “Baby Boom Generation” will never retire! That startling projection was revealed by futurist Jay Jamrog at the Midwinter Meeting

of the National Conference of Bar Presidents/National Association of Bar Executives. ISBA President Joe Holland, Executive Director Dwight Dinkla and I braved midwinter storms during the week of January 29-February 3 to attend this and other sessions in Philadelphia which were packed with ideas for bar associations.

Jamrog, the lively executive director of the Human Resource Institute of Tampa, Florida, studies demographics and anticipates how changes will affect our professions, businesses and lives. He captivated his audience with “factoids” about the changing nature of the U.S. workforce, including:

- There is a tight U.S. professional labor market which started in 1995 and will last another 15 years.
- By 2006 there will be eight million unfilled professional jobs in the U.S.
- The “high tech” employees of today and the foreseeable future are also “high maintenance,” requiring employers to be coach, teacher, and mentor. To attract and retain them, employers will have to provide:
 - top of the line medical and disability insurance plans,
 - open and honest communication,
 - good supervisory relationships,
 - a challenging work experience, including variety,
 - good training,
 - a team environment,
 - career growth; they’ll be impatient,
 - experience and skills that will transferable to a new job if required,
 - a good balance between work and life; fewer will be workaholics,
 - and finally, good salary, but if given the above, salary becomes secondary.
- By the end of this decade, 2010, inter-generational conflict will be a major problem as the needs of “Boomers” strap the ability of society to provide for them.

Jamrog believes that lawyers and law

firms are subject to all of these trends. To compete in the labor markets both today and in the future, law firms must find ways to meet employees’ and society’s needs, or else!

Kudos to Olson

The Iowa State Bar Association continues to be well regarded in national bar circles. A shining example is ISBA YLD Past President Alan Olson, who will ascend to the Presidency of the

ABA’s Young Lawyer’s Division at the ABA Annual Meeting in Washington, D.C. this August. Olson’s energetic and creative leadership have already caught the attention of the “senior bar,” and he is likely to be in the spotlight for years to come. He and current ISBA YLD leadership were in fine form while in Philadelphia for their own sessions. Further details on their meeting are reported in the YLD pages.



Paul Ahlers

My sincere thanks for all the hard work

Throughout this bar year, I have been utilizing this article to inform and update you about the various projects that the

Young Lawyers Division and its hard-working committee members are conducting. Unfortunately, my time as president is drawing to a close much more quickly than I would like, which, among other things, means that I will not have the chance to devote an entire president's letter to each of the worthwhile YLD projects currently underway. However, I do not want to miss the opportunity to recognize those projects and the people behind them. Therefore, this letter will give a quick overview of just a few of the projects that have been completed or are going to be completed this bar year. Some of these projects may be well-known to you; others may be projects you have never heard of. Either way, the following are some of the many highlights of the YLD this year.

Domestic Abuse Committee

Under the leadership of chairperson Nicole Claussen of Cedar Rapids, the YLD Domestic Abuse Committee has undertaken a videotape distribution project stemming from the Symposium on Domestic Abuse sponsored by the ISBA last May. The symposium hosted renowned speakers from around the state and nation to

discuss a variety of issues surrounding the problem of domestic abuse. The symposium had something for everyone, including victims, domestic abuse shelter personnel, prosecutors, defense attorneys, medical professionals, and the like.

Fortunately, the planners of the symposium had the foresight to videotape the presentations for future use. The YLD Domestic Abuse Committee has combed through the hours of videotapes to select the appropriate segments to be incorporated into videotapes that will be distributed to a variety of target audiences. The Committee also is in the process of drafting literature to distribute with the videotapes. Although the Committee has many ideas for the distribution of the tapes, if any of you have an audience in mind, please feel free to contact Nicole or me with your idea.

Know Your Constitution Committee

The Know Your Constitution Committee had another successful year of administering the Know Your Constitution quiz. Andy Chappell of Iowa City did an excellent job of chairing the committee that drafted the quiz and administered it to over 2,000 students from 118 different classes representing 85 state legislative districts around the state. Of the 2,000 plus students who took the quiz, 100 finalists and their teachers were selected to attend a luncheon in Des Moines in January. Of the 100 finalists, five students were randomly selected as winners of a week-long expense-paid trip to Washington, D.C. with their teachers. Secretary of State Chet Culver and ISBA President Joe Holland were the keynote speakers. I also had the opportunity to make a few remarks, which was the first KYC banquet I had the opportunity to attend. I must say that I was thoroughly impressed by the students and all of the hard work undertaken by the Committee and the ISBA staff to



The Young Lawyers Division News is published bimonthly. Material for publication and suggestions as to content are welcome. They should be sent to Tré Critelli, Nick Critelli Associates, 317 Sixth Avenue, Des Moines, IA 50309. Articles appearing in this section about substantive law are not intended to be comprehensive and do not necessarily reflect the opinion of the ISBA or the Young Lawyers Division.

make the project and the luncheon such a great event.

Services to the Elderly Committee

As many of you know, the Services to the Elderly Committee is responsible for the creation of the *Handbook for Older Iowans*. With fewer than 600 copies of the existing version left, the Committee is in the process of updating the handbook for another run of publication and distribution. Chairperson Angela Nelson of Des Moines has continued her history of excellent leadership of this very hard-working and productive committee.

Mock Trial Committee

The Mock Trial Committee assisted in the successful completion of the junior high mock trial tournaments held throughout the state in November. First place went to Indian Hills Junior High School of West Des Moines. Second place went Regis Middle School of Cedar Rapids, which was coached by our own YLD President-Elect Tim Semelroth. Congratulations to Chairperson Sara Dooley Rothman of Independence as this committee continues to excel under her leadership.

These are just a few of the many highlights of the YLD this year. I want to express my appreciation to all of the committee chairs and committee members that have contributed to these and all the other successful projects of the YLD.



Classified Ads

PUBLISHER'S NOTE

E-mail submissions to the CLASSIFIED ADVERTISING section are requested. They save your keystrokes, thus cutting down on our production time, and help to assure accuracy.

Please follow the style of the ads appearing here, indicate the classification where you want your ad to appear and state how long the ad is to run. Each ISBA member of a private law practice receives two free insertions annually. Corporate and government attorney members of the association receive the same free privileges for their business, non-employer-related ads. If you have questions, call Chuck Corcoran at 515-243-3179. E-mail your copy to ccorcoran@iowabar.org

The number appearing in parentheses after each ad is not a box number. It indicates the date the ad will be pulled from the magazine. (TF) indicates the ad will run until we receive instructions to pull it.

COMMERCIAL ADVERTISERS:

Contact Shannon Espenscheid 641-474-2280 or David Larson 515-440-2810, of Dave Larson Enterprises.

Positions Available

SOUTHWEST IOWA county seat AV-Rated law firm has opening for general/trial practice attorney to fill by August. Send resume to Code 0202-1, The Iowa State Bar Association, 521 East Locust St., Fl. 3, Des Moines, IA 50309-1939. (0402)

NOTICE UNAUTHORIZED PRACTICE OF LAW VIOLATIONS

For information and to file a complaint, contact:

Mark Godwin, Chair
Commission on Unauthorized
Practice of Law
400 East First Street
Des Moines, Iowa 50309
e-mail: magodwin@ci.des-moines.ia.us

NORTHWEST IOWA AV-RATED county seat general practice law firm of four lawyers has an opening for an attorney. Please send resume to Klay, Veldhuizen, Bindner, DeJong, Pals & Jacobsma, P.L.C., PO Box 405, Orange City, IA 51041. (0402)

EXPERIENCED ASSOCIATE ATTORNEY: Small Cedar Rapids litigation firm with Fortune 500 client base seeks an associate attorney with 2-4 years of experience to take on immediate case load. Salary range \$45,000-\$55,000+ with full benefits. Prior trial experience and references required. All inquiries will be held in strict confidence. Submit resume to - The Iowa Lawyer, Code SE10, 521 East Locust Street, Fl. 3, Des Moines, Iowa 50309-1939. (0402)

SMALL FIRM seeking responsible, industrious, client-oriented associate with 1-3 years experience or strong clinical background. Salary negotiable. Send resume and transcript to U.J. Booth, 122 W. Jefferson, Osceola, IA 50213 or FAX: 641-342-2019 or E-mail: ujbooth@pionet.net (0402)

ATTORNEY WANTED - Waterloo attorney with growing practice seeks associate attorney to assist with current work. A great opportunity to build a private practice. Position offers mentoring, training and potential partnership. New facilities and great staff. Mail resume to Craig Ament, Ament Law Firm, P. O. Box 325, Waterloo, Iowa 50704. (0402)

GROWING AV-RATED law firm with regional general practice seeks two associates, one in general litigation and one in business law. Our firm handles major litigation and transactions with direct client contact by associates. Candidates should have a minimum of two years experience and solid credentials (3-5 years experience preferred). Full benefits provided, including retirement plan; salary commensurate with experience and qualifications. All inquiries held in confidence. Please send a current resume and cover letter to Brian J. Donahoe, Cutler & Donahoe, LLP, 100 N. Phillips Ave., 9th Floor, Sioux Falls, SD 57104-6725. Fax 605-335-4961. E-mail BrianD@cutlerlawfirm.com (0402)

American Family Insurance is one of the nation's top-rated insurance companies. Currently, we have an exciting opportunity for you to join us in the following position at our **Davenport, Iowa** Legal Office.

Litigation Attorney

Job ID 1124

The successful candidate will be an active litigator involved in all aspects of insurance defense through discovery, trial, and appeal. Qualified candidates must have at least three years of civil litigation experience and be licensed to practice law in Iowa; dual licensing for Illinois is a plus. This position offers the right candidate the opportunity to practice defense litigation in a team oriented setting, coupled with the benefits and opportunities provided by a strong corporation.

We offer a competitive salary and excellent benefits package. Please apply online at: www.amfam.com through our Career link to **Job ID 1124**.

If you are unable to apply online, please submit a resume to the attention of Richard Brown, Associate General Counsel, at this address —

American Family Insurance
P.O. Box 65630
5500 Westown Parkway, Suite 180
West Des Moines, IA 50266

Equal Opportunity Employer
(0402)

ASSOCIATE: Sioux City AV-rated law firm seeking highly motivated candidate to work primarily in the business and commercial law areas. Candidates include recent graduates and attorneys with up to three years of experience with a preference for those licensed in Iowa. Candidates must have an excellent academic background. Our firm offers a competitive compensation and benefits package and an opportunity to work directly with clients. Sioux City is part of a vibrant community of 136,000 people comprised of Iowa, South Dakota and Nebraska. You may submit your cover letter and resume directly to Crary, Huff, Inkster, Sheehan, Ringgenberg, Hartnett, Storm & Jensen, P.C., attention Cody M. McCullough, P.O. Box 27, Sioux City, IA 51102 or send it via e-mail to cmccullo@craryhuff.com Employer www.craryhuff.com (0502)

SUBROGATION ATTORNEY: Great West Casualty seeks an experienced attorney, for subrogation. Duties include investigations, negotiations, direction of litigation, defense of cargo claims, research and presentation of legal opinions and assisting other departments with legal issues; a good public speaker. No defense of liability claims. Must be experienced in aspects of litigation. Computer literacy needed. Excellent salary and benefit package. Send cover letter, resume, salary history (required), writing sample preferably related to motor carrier industry, and professional references to: Great West Casualty Company, Rhonda Raad, Manager, Human Resources, P.O. Box 4555, Bloomington, IN 47403. Fax: (812)337-4321, r.raad@gwccnet.com, and equal opportunity employer.

LEGAL ASSISTANT I – A full-time position in Eighth Judicial District, Mahaska County (Oskaloosa) or (Wapello County (Ottumwa)). Salary is \$35,006.40 with State of Iowa benefits. Employees in this class perform research and administrative functions for judges, such as draft opinions and orders on judges' direction; research motions; prepare jury instructions; correspond with parties and attorneys; and perform other related work as required. Applicants must possess knowledge of substantive and procedural law and statutes applicable to jurisdiction of the court; be able to interact with the public, judges, attorneys and government officials in a variety of situations and circumstances and have the ability to formulate and express ideas on complex technical and legal subjects clearly and concisely, orally and in writing. Must be a graduate of an accredited law school (applicants may apply before they have officially graduated). Demonstrating a high standard of academic excellence and considerable experience in legal research and writing are desirable. Submit resume, writing sample, and transcript of law school grades by 4:30 p.m., March 22, 2002 to Deborah M. Dice, District Court Administrator Eighth Judicial District, P.O. Box 1319, Ottumwa, Iowa 52501. FAX: 641-683-1688; Phone: 641-684-6502. E-mail: deb.dice@jb.state.ia.us EEO/AA

DEVELOPMENTAL DISABILITIES /mental retardation/special education/mental health/nursing home & hospital standard of care – expert witness services provided related to Standard of Care issues in health service agencies. William A. Lybarger, Ph.D. 620-221-6415 / tlybarga@yahoo.com / www.tonylybarger.com

ASSISTANT CITY ATTORNEY: The City of Des Moines is seeking an attorney to join its legal department. The attorney selected for this position will provide legal representation to one or more City Departments and may perform some litigation work. Admission or eligibility to be admitted to the Iowa Bar is required. Applicants with prior experience preferred. Competitive salary and outstanding benefits. IA DL req. For detailed information, call (515)283-4115 or visit web site www.ci.des-moines.ia.us Apply to HR, Rm 103, 400 E. 1st St., Des Moines, IA. An Equal Opportunity Employer M/F/H Drug Screen Required

Established Practice Wanted

IOWA ATTORNEY leaving a private business venture seeks lawyer from whom to purchase all or part of a private practice. Practice location must be within 45 minutes of Davenport. Eleven years experience as lawyer, mainly in business law and taxation but willing to consider any type of practice, including trial. Order of the Coif, UCLA Law School. If you prefer, you may stay after purchase. Please contact me at 309-269-0553 or by letter to 2133 Saint Andrews Circle, Bettendorf, Iowa 52722. Confidentiality ensured. (0502)

Vacation Rental

WATCH THE SUNSET over The Gulf of Mexico. Take advantage of a quiet island with fantastic shelling. Two bedroom two bathroom condos at Boca Grande, Florida. Please call Yale Kramer at 515-281-9237 for owner's discount.

Paid Advertisement

Free Report Shows Lawyers How to Get More Clients

Why do some lawyers get rich while others struggle to pay their bills? "That's simple," says attorney David M. Ward. "Successful lawyers know how to market their services."

A successful sole practitioner who once struggled to attract clients, Ward credits his turnaround to a referral marketing system he developed

several years ago. "I went from dead broke and drowning in debt to earning \$300,000 a year, practically overnight," he says.

"Lawyers depend on referrals," Ward notes, "but without a system, referrals are unpredictable and so is their income."

Ward has written a new report, "**How to Get More**

Clients In a Month Than You Now Get All Year!?" which reveals how any lawyer can use his marketing system to get more clients and increase their income.

Iowa lawyers can get a **FREE** copy of Ward's report by calling **1-800-562-4627** (a 24-hour recorded message) or by going to davidward.com

Miscellaneous

NOTICE - MEDICAID LIEN: The Iowa Department of Human Services has a lien against the recovery recipients obtained from third party tort-feasors pursuant to Iowa Code 249A.6. Questions? Call CONSULTEC, INC., Rocco Russo, 1-515-327-0950 ext. 1114.

NOTICE CRIME VICTIM COMPENSATION SUBROGATION. Do you represent a client who has received medical benefits, lost wages, loss of support, counseling or funeral and burial assistance from the Crime Victim Compensation Program of the attorney general's office? When your client applied for compensation benefits, a subrogation agreement was signed pursuant to Iowa Code section 912.12 (1995). The attorney who is suing on behalf of a crime victim should give notice to the Crime Victim Compensation Program upon filing a claim on behalf of the recipient. The Crime Victim Compensation Program will pay a pro rated share of the expenses incurred in obtaining a judgment or verdict. Questions? Contact Julie Swanston, MPA Compensation Administrator, Crime Victim Assistance Division, (515) 281-5044.

NOTICE TO ATTORNEYS: Estate Recovery Program. Iowa Code section 249A.5(2)f(2) provides that medical assistance recipients, age 55 and older, shall reimburse the state for Title XIX benefits received. Title XIX funds the Medicaid, Medically Needy, and Elderly Waiver programs. A medical assistance claim for reimbursement is a priority claim, Iowa Code section 633.425. Iowa Code section 249A.5(2)f(2) provides that the personal representative or executor of the estate of the recipient may be personally liable for the claim to the extent of the recipients assets at the time of death, if such assets were not used to pay the medical assistance debt. For further information contact: Ben Chatman; Estate Recovery Program; 904 Walnut St., Ste. 502, Des Moines, IA 50309; telephone 515-246-9841; fax 515-246-1722; 888-513-5186; <http://www.iowa-estates.com>
E-Mail: estates@sumo group.com

Attorney Business Opportunity

AMBITIOUS BUSINESS-MINDED attorney wanted by small, established and expanding 22-year-old general practice law firm with offices in Des Moines and central Iowa to become specialized in the fastest growing practice area of debtor bankruptcy - plus criminal law, family law, personal injury, probate and appeals. All options considered from new attorney to merger to quick-term buy-in or buy-out contract (with retirement-nearing owner remaining in long-term "of counsel" rainmaking and advisory/counseling relationship). Fax replies to 515-256-0907. (0402)

Expert Software

LEGALWORKS GUIDELINES FOR IOWA. IBM Windows Compatible/Windows version. Calculates child support pursuant to Iowa child support guidelines worksheet and client's financial affidavit. Call (888) 282-5291 for pricing and delivery information. Satisfaction guaranteed. LegalWorks Software, P.O. Box 22127, Des Moines, IA 50325.

Office Space Available

DUBUQUE LAW OFFICE: Space available for one or two attorneys. Close to courthouse. Includes secretary, receptionist, conference room, copier, facsimile. Please contact Timothy Goen, 412 Loras Blvd., Dubuque, IA 52001 Phone: 563-583-1180. (0402)

PLAZA LAW OFFICE - Office space available in suite of law offices in The Plaza in Downtown Des Moines includes staff, services, equipment and utilities. Reasonable terms. All inquiries confidential. Phone 515-244-7820. (0402)

IOWA CITY - Three offices that share common reception area and library available. Parking and storage included. The courthouse, bank and post office are nearby. Located at 22 Court Street in Iowa City. Please phone 319-351-0222. (0702)

Experts

EXAMINER OF QUESTIONED HANDWRITING, 30 years of experience, qualified in state and federal courts since 1972, résumé available upon request. Richard D. Mould; 130 East Rose; Des Moines 50315-7747; (515) 288-5881.

continued on page 26...

ABA mid-year meeting in Philadelphia – The House of Delegates revealed

By David E. Funkhouser, ABA State Delegate

The ABA recently held its mid-year meeting in Philadelphia. This meeting includes a wide variety of activity, culminating in a meeting of the House of Delegates. HOD is the policy making body of the organization, considering and voting upon various initiatives and resolutions which constitute the official policy of the ABA. HOD is primarily comprised of Bar Association delegates, elected by state and local bar associations whose numerical representation is dependent upon the number of lawyers practicing in their geographical jurisdiction. California has well over 40 such delegates. Iowa has two. Each state is entitled to one STATE DELE-

GATE, elected by lawyers practicing in that state who are members of the ABA. Various other entities are entitled to one or more delegates, such as an ABA section. There is a total of over 400 voting members of the House of Delegates.

OVERALL, IOWA'S VOICE IS OBVIOUSLY SMALL. However, in one area our voice is equal. The State Delegates comprise the vast majority of the nominating committee which for all practical purposes, selects the officers of the ABA and we each have one vote. This give us an opportunity to explain the needs of our constituents and to try to get a commitment from them to help. In Philadel-

phia the only office at issue was president-elect. Dennis Archer is the nominee selected. His credentials are too numerous to list but most notably include, former Justice of the Michigan Supreme Court and Mayor of Detroit. He officially will be voted upon by ABA members and will take office in August, 2002 and will be the first person of color to serve as president of this organization.

Following the nominating process and numerous informational meetings on Sunday, the House of Delegates convened on Monday and met through Tuesday. This was a particu-

continued on page 27...



David E. Funkhouser

Classified Advertising

REAL ESTATE AND BUILDING CONSTRUCTION EXPERT:

Architect available to assist in case preparation, depositions and court testimony for plaintiff or defense attorneys. Areas of expertise include: real estate partnerships, real estate finance, real estate investments, land economics, architecture, building design, value engineering, cost evaluation, construction management and construction scheduling. Specialist in preparation of computer-generated charts, graphs, scale drawings and models. Professional experience in 32 states. Résumé and references available upon request. John G. Kujac, 15561 NW Madrid Dr., Madrid, IA 50156. (515)795-4001 or fax (515) 795-3049.

FREE Legal Help!

The Legal Hotline for Iowans
60 and over

800-992-8161 statewide

282-8161 in Des Moines
calling area

This is a project of the

**Legal Services Corporation
of Iowa**

Law Books For Sale

REASONABLY PRICED – To disperse the law library of recently deceased Attorney Dave Hughes of Cascade, Iowa, the following are offered by Kay (Mrs. Dave) Hughes – NW Reporters Vols. 64-185; NW Reporters 2d Vols. 1-523; Iowa Code Annotated – pocket parts 1995 Vols. 1-59 – Complete Set; Iowa Digest – pocket parts 1995 Vols. 1-20; Corpus Juris Secundum – pocket parts 1973 Vols. 1-8. Miscellaneous: Goldstein Trial Technique – 2nd edition complete set Vols. 1-3; Iowa Practice; Corporate Law and Practice, Vols. 5 and 6; Encyclopedia of Corporate Meetings (Sardell) Vols. 1 and 2; Iowa Title Opinions and Standards; various other legal special interest books. Contact Mrs. Hughes at 800-728-7367, ext. 203 (days); 563-852-3943 (eves); 5009 County Road D-61, Cascade, Iowa 52033. (TF)

Personal

IF DEPRESSION, STRESS, ALCOHOL OR DRUGS are a problem for you, we can help. We are a non-profit corporation offering attorneys free help in a totally confidential relationship. We are the **Iowa Lawyers Assistance Program** and totally separate from the state bar association. Under order of the Iowa Supreme Court, all communication with us is privileged and private. Our director is a former lawyer, a recovering alcoholic and drug addict. He is a trained substance abuse counselor and an Employee Assistance Professional (EAP). We cannot help unless you call – **515-277-3817** or **800-243-1533** – or message (in confidence) **iowalawyers@aol.com** All you have to do is ask us to contact you. No other details are necessary. We will call you. *The Iowa Lawyers Assistance Program can provide speakers for local bar associations. Just ask.*

The House of Delegates revealed

continued from page 26...

larly long and busy session devoted primarily to voting upon the proposed new version of the Model Code of Professional Responsibility, preceded by five years of work by a specially appointed committee which reviewed the entire preceding Code and made recommended changes. This finalization process started last summer at the annual meeting in Chicago when the House devoted four hours debating selected proposed changes. Since this is a Model Code, it will now be sent to the states for consideration of adoption in whole or in part or at least consideration in drafting their own. Iowa already has a committee in place which has been working on our existing Code and has deferred completing its task to have the benefit of the Model Code for guidance in finalizing its work.

Time and space do not permit a meaningful summarization or characterization of this new Model Code. Most of it was non-controversial. Many portions of it are directed to matters not addressed in the Iowa Code and if adopted, may provide helpful guidance on matters our Code is silent upon.

PERHAPS THE MOST CONTROVERSIAL ITEM had to do with creating an exception to our historically long-standing inviolate rule of confidentiality of client communications. The new Model Code permits, but does not require, a lawyer under limited circumstances, to disclose a client's intent to kill or do substantial bodily harm to someone. The committee and various proponents wanted to extend the exception to instances of monetary harm such as a plan to defraud. That was voted down.

All of us will have an opportunity to become familiar with the provisions of this Model Code as we work through the process of revising our own Code after a comparative evaluation.

Probably the most controversial issue before the House at this meeting arose out of the aftermath of the infamous September 11th attacks. A resolution was presented to the House

containing recommended guidance to the United States Government respecting the handling of the so-called "detainees." While the resolution is long and involved and was accompanied by about 10 pages of explanatory commentary, in essence it urged the administration, Congress and Secretary of Defense, to handle the detainees in accordance with the spirit of the provisions of the Geneva Convention respecting prisoners of war, that they be processed in public hearings as opposed to secret hearings and that the process culminate in proceedings incorporating principles of fundamental fairness.

There recently has evolved a seemingly ever-increasing number of delegates who believe that the ABA too often takes up matters that really aren't its business, rather should be left to others to decide. They usually signal their view by a motion to postpone debate indefinitely, and did so here. That motion failed by a narrow margin.

WE RETURNED TO THE RESOLUTION AND DEBATE ENSUED.

The debates are marvelous. Each side has an array of well-informed, persuasive speakers. Leading the opponents view was Ted Olson, U.S. Solicitor General, who in essence reiterated the administration's preliminary views reported by the

media that these are not prisoners of war, but rather are murdering terrorists who have no regard for human life or any values honored by civilized nations. He said that it is necessary to detain them for endless interrogation to try to obtain information to protect

our nation in the future and to help locate the culprits and bring them to justice and that military tribunals are not unknown in times of war like this. He said that view is held because there are so many people to be processed, many unusual difficulties with proofs, and soon and that the government does not want its hands tied. They are considering all of these matters and trying to work through them and find appropriate solutions and may consult with the ABA down the line.

The proponents argued that when members of our fighting forces are captured, our initial primary concern is that they be treated as prisoners of war to be accorded the fundamental protections civilized nations have agreed should be afforded prisoners of war as expressed in the Geneva Convention Treaty and when our people are not receiving that, our nation is out building an international coalition and bringing immense pressure to bear on those holding our people to comply, and thus, it is inconsistent for us to act in any other way and sets a bad precedent for future treatment of our people who are captured. They also list - That these people have been held over 120 days incommunicado, not charged with any crime, not pro-

continued on page 28...

The House of Delegates revealed

continued from page 27...

vided any sort of hearing to determine if there is anything akin to probable cause for holding them and there are signals from the administration that they may be tried in secret proceedings pursuant to undisclosed rules or procedures, let alone including any our legal system would consider fundamentally fair, and if an American citizen were being subjected to anything like this, we as a nation would be outraged and would be seeking to build a coalition of international condemnation. That currently many of our friends and allies have already expressed concern and indeed suspicion, including Saudi Arabia which apparently is requesting that 20 of the detainees who are their citizens, be returned to them for trial. That the United States historically has led the civilized world in encouraging and assisting developing nations to adopt and adhere to the rule of law and that the ABA has fully supported that effort and has provided knowledgeable people to travel to, and assist those nations in that process. That this resolution is consistent with the founding principles of this nation and constitute principles that our courts and our profession are sworn to uphold; that our own government urges these principles upon others and are actually the centerpiece of their philosophy on the war on terror as they assert that terror is a product of lawlessness and it is in the interest of all nations

to put down lawlessness and adhere to the rule of law. That principles are only really tested during difficult times and the justification is universally that the circumstances of the moment necessitate it.

Finally, they reminded us that the most shameful episodes in the history of this nation have occurred when we have abandoned these fundamental principles such as the detention of American citizens of foreign ancestry during World War II who were stripped of their rights and property without any hearing or determination of wrongdoing. Tough choice! The resolution ended up passing by a fairly substantial margin.

Oftentimes the best part of these meetings for me, is ending the meeting and returning home to my own legal culture - a culture remarkably different in many respects from the legal culture existing in many other parts of this country.

Dang me for a traditionalist, but the more I get around, the happier I am that I chose to practice law in Iowa. These meetings well serve to remind me of the comparative utopian legal culture Iowa represents.

Four cases in point

AT AN EVENING RECEPTION where we get a chance to get acquainted and discuss some events of the day or anticipated events of tomorrow (albeit in the midst of a dazzling array of food and beverages), I was visiting with a delegate and another delegate

approached and obviously wanted to interrupt our conversation for a moment. I stepped back a little to make room and this delegate announced that they had overheard our conversation and understood I was from Iowa and wanted to meet me. In the process of introductions, I was put off balance by the most unusual look this person was giving me. I was hopeful it meant that the delegate was in awe of standing in the presence of the State Delegate from Iowa and although that was highly unlikely, it was a more palatable choice to the obvious other alternative explanations like I either had a third eye growing in the middle of my forehead or spinach hanging from my teeth. The delegate immediately clarified the mystery by announcing that they always wanted to meet someone from Iowa where we have these oddly restrictive rules on advertising. I quickly and proudly responded that I thought they were the most restrictive in the nation but they were still a little too liberal for me. The delegate then said something like, "I'm from another state where just about anything goes; that lawyers there spend an enormous amount of money on advertising and that all the ads end up looking about the same and there is a constant battle to set yourself apart from others, so style and flair rule, and that a good part of my practice involves advising lawyers how far they can go." I wondered if the delegate wasn't giving me a future glimpse of what the Iowa legal advertising landscape will look like in the not too distant future as I was immediately reminded that even at our fledgling stage here in Iowa, my own hometown yellow pages contained ads of seemingly equal content but seek to distinguish themselves by size, coloration differences with visual imagery of scales, courthouses, and the like in the background.

continued on page 29...

The House of Delegates revealed

continued from page 28...

AT THE SAME RECEPTION, another delegate and I were introduced and the delegate informed me that their term had expired and this was their last meeting. This individual expressed that they were leaving with mixed feelings, but the best part was that they would no longer have to go home and prove to their firm the “value” they brought to the firm by participating in the House of Delegates. Now that raises the bar on the concept of networking! This episode clearly stood in stark contrast to my experience here in Iowa where I have had the opportunity to see so many lawyers voluntarily give so many hours and out-of-pocket expense to participate in the work of numerous committees and sections and projects of this association which benefits lawyers and the public we serve, and upon charitable, religious, and civic boards and commissions at home as a way of giving something back.

DURING THE HOD MEETING, a resolution was proposed urging all states which require selection of judges through public elections, to conduct said elections through public funding. I initially was surprised as I thought the ABA was on record in support of the proposition that all judges should be chosen through a merit selection process. The proponents explained the reason for the resolution was that there are many states where, either by constitutional provision or by state statute, selection of judges is required by public election and while many efforts have been made in the past decade that change that, they have been unsuccessful and it is unlikely they will be successful in the near future. Further, that in some states a race for position on the Supreme Court has run as high as \$600,000, most of which is donated by lawyers, and some people think that can take on the appearance of impropriety. Therefore, since they are going to continue with public elections, it should be done by public funding and eradicate private

donations. The two positions were reconciled by amending the resolution to first note that the ABA reaffirmed its support of merit selection, but then provided if you are going to have public elections, they should be conducted in accordance with the principles in the resolution.

ON THE LAST MORNING, I was reading an article in a local paper. I initially was disappointed to see how much more generous East Coast lawyers appear to be compared to Iowa lawyers. The article listed a number of firms that had given between \$300,000 and \$800,000 to the mayor in his campaign for office. But as I read the full article, I learned that the newspaper was taking the city to task. It pointed out that the mayor and city council had promised the citizens that the new stadium they were building would not cost more than \$340,000,000. But the article pointed out that that wasn't true because that was just the cost of construction and the city had failed to take into account the cost of various service fees incurred in land acquisition, issuing bonds, and so on, and that had already totaled another \$42,000,000. Newspapers being what they are (cyn-

ics all), it then proceeded to list the amount of fees charged by providers of financial services, accountants and lawyers in one column. In the column next to it, they listed the amount that that individual or entity had given to the mayor. The ratio seemed to be about five to one, exemplified by the firm that gave \$300,000 to the campaign and submitted a \$1.5 million for services rendered. In terms of “value,” the newspaper seemed to imply that these contributions begat good value.

On balance, it is all very interesting and educational and while most of the people involved in the ABA that I have become acquainted with are very talented and give generously of their time primarily as a way of giving something back and improving their profession, perhaps you can understand why I am often glad to get home and be back among you.

Next up for the annual meeting in August is multijurisdictional practice of law. Preliminary previews suggest the recommended solution may be creation of “safe harbors” or a differential analysis like you can be a little bit pregnant without really being pregnant.

Mark your calendars now for our 2002 CLE programs! This calendar will be updated as Section & Committee CLE programs are scheduled.

2002 CONTINUING LEGAL EDUCATION

Date	Program	Number of Hours			Location
		State	Federal	Ethics	
March					
27-28	Criminal Law Seminar	10.75	4.25	2	West Des Moines, Marriott Hotel
April					
5	Worker's Compensation Seminar	6	-	-	West Des Moines, Marriott Hotel
May					
2-3	Bridge the Gap Seminar	15	6.25	2	Des Moines, Downtown Marriott Hotel
6	Seabury & Smith Ethics Seminar	2	-	2	Sioux City, Convention Center
7	Seabury & Smith Ethics Seminar	2	-	2	Des Moines, Downtown Marriott Hotel
8	Seabury & Smith Ethics Seminar	2	-	2	Cedar Rapids, Sheraton Four Points Hotel
9	Seabury & Smith Ethics Seminar	2	-	2	Davenport, Blackhawk Hotel
10	Commercial & Bankruptcy Seminar				Cedar Rapids, Sheraton Four Points Hotel
16-18	Bench/Bar Conference	8.5	-	2.25	Okoboji, The Inn Hotel & Conference Center
31	Government Practice Seminar				West Des Moines, Marriott Hotel
June					
19-21	Annual Meeting				Des Moines, Downtown Marriott Hotel
July					
15	General Practice CLE & Golf	1	-	1	Harvester, Harvester Golf Club
August					
9-10	YLD Summer Seminar				Okoboji, The Inn Hotel & Conference Center
September					
30	Traveling Seminar				Sioux City, Convention Center
October					
1	Traveling Seminar				Council Bluffs, Harrah's Hotel & Casino
2	Traveling Seminar				Mason City, Holiday Inn
3	Traveling Seminar				Cedar Rapids, Sheraton Four Points Hotel
4	Traveling Seminar				Bettendorf, Jumer's Castle Lodge
7	Traveling Seminar				Des Moines, Embassy Suites
December					
4-6	Tax School				Des Moines, Downtown Marriott Hotel
13	Federal Practice Seminar				Des Moines, Downtown Marriott Hotel

**Watch for new
Supreme Court
Rules on Continuing
Legal Education
which are effective
July 1st this year!**

For information about any Iowa State Bar Association-sponsored event call 1-800-457-3729 or (515) 243-3179 or visit our website: www.iowabar.org Register online using VISA or MasterCard.

**An Important Message To All ISBA Members –
Please respond to this request. Unless you opt
out, your name will be included on our website in**

ISBA ATTORNEY ONLINE

**THE LATEST, FREE ISBA SERVICE FOR MEMBERS!
AN IOWA ATTORNEY “BUSINESS CARD” LISTING FOR USE BY THE
GENERAL PUBLIC LOOKING FOR A LAWYER**

May 1st we will activate **ISBA ATTORNEY ONLINE** – a fully searchable database on our website – **www.iowabar.org** — and all ISBA members will be on it. **Members must notify us if they do not want to be listed.**

ISBA ATTORNEY ONLINE will be accessible by the general public and will include the names of attorneys, the names of their firms or employers, if available, with their office addresses, phone and facsimile numbers and their e-mail addresses. It is essential for you to be sure we have your latest information by completing the form on this page or by going to our website to submit current data online at

www.iowabar.org

Provided here is a form we are asking all members to complete to assure we have their latest data. It also allows members to opt out of this service. Please do not delay completing this form or going to the website to fill it out, especially if you do not want this “business card” listing online.

This is the first step toward the goal of making it easier for the public anywhere – in state or out – to locate a lawyer in Iowa.

Now that the new advertising rules for attorneys are effective – as of February 15th – be sure to watch for information on our website on how you can expand your listing to include hyperlinks to your own websites, your photograph, areas of concentration as well as your education and honors and courses of specialization that resulted in certification.

PLEASE, RETURN THIS FORM IN ANY CASE, PARTICULARLY IF YOU DO NOT WANT TO BE INCLUDED IN **ISBA ATTORNEY ONLINE.**

Please, complete and mail this form, or go to **www.iowabar.org** and complete it there.

ISBA ATTORNEY ONLINE UPDATE

Please, complete all items!

Name _____ Member Number _____

Firm/Employer _____

Street Address _____ City _____

County _____ State _____ ZIP _____

Phone - Work _____ Facsimile _____

E-mail Address _____

I do NOT want to be listed in ISBA ATTORNEY ONLINE ()

Mail to – Attorney Online, The Iowa State Bar Association
521 East Locust Street, Fl. 3, Des Moines, Iowa 50309-1939