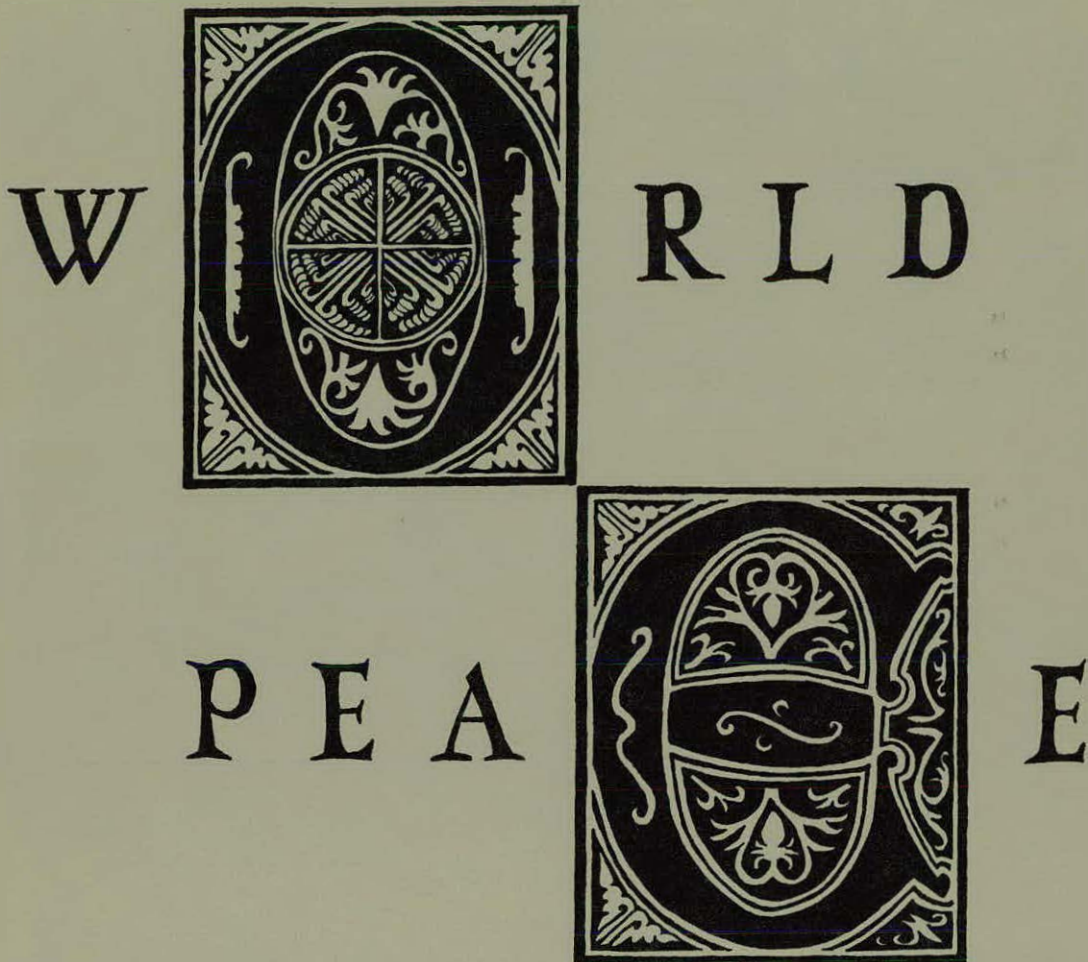
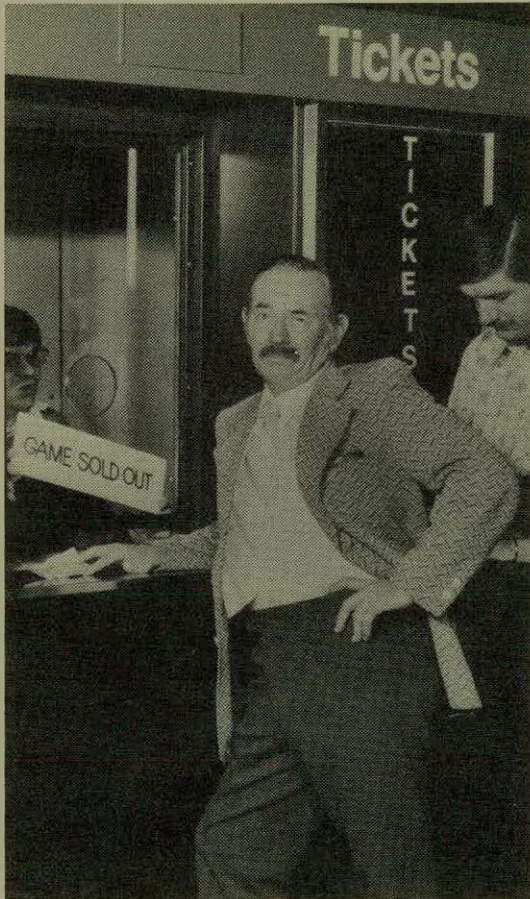

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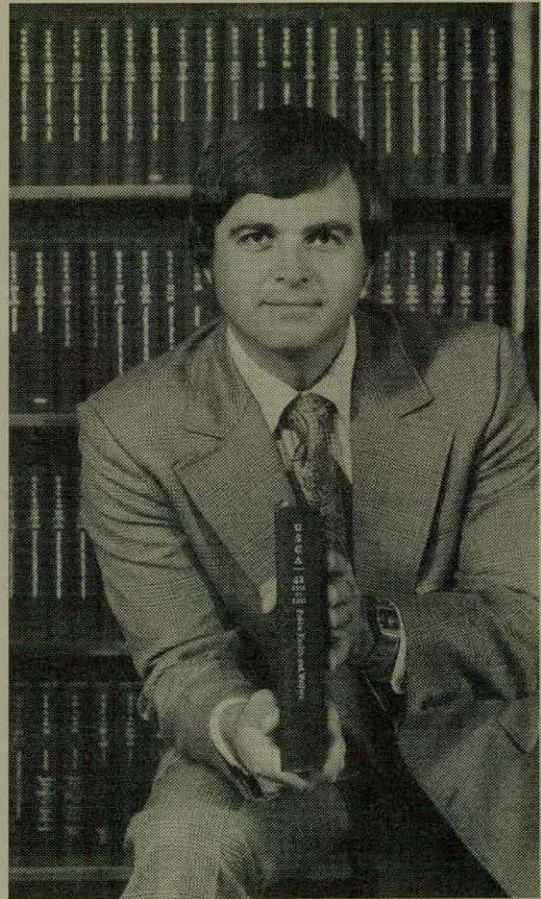


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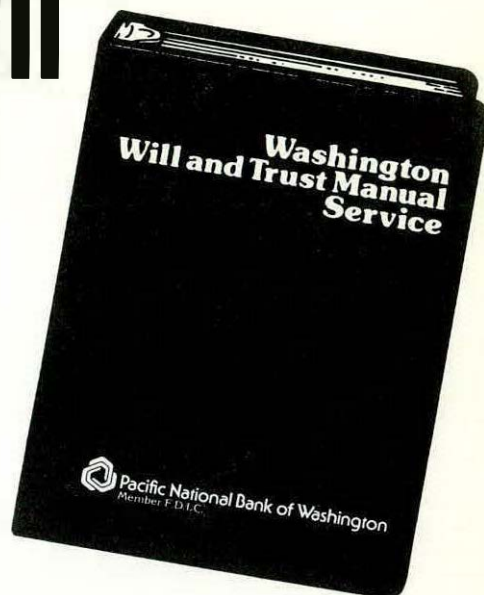
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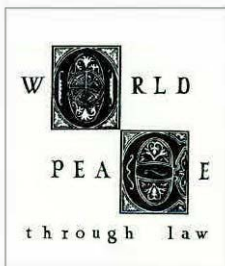
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Our Cover



"World Peace Through Law," a Graphic design by Arthur A. Butler of Seattle, highlights several articles on that subject which appear in this issue.

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"Con" Statement on Lay Members Makes "Pro" Case

Editor:

I often remember an incident when I first started to practice law where an attorney was told by a judge that he had decided in his favor but would allow him to argue his point if he wished. The attorney proceeded to argue the point and the judge announced that he had changed his mind and decided the case against the attorney.

Regarding the recent mailing concerning the resolution about the addition of lay members to the Board, I think the attorneys in opposition have made the same mistake as that attorney. In stating that "Members of the Board of Governors should be those whose first loyalties are to the legal profession and to the Bar Association," I think they have made the case for the other side. I would expect that statement to be quoted frequently before the legislature if the resolution does not pass.

Where have those opponents been the last ten years?

BERT L. METZGER, JR.
Seattle

On Advertising (Free Offer)

Editor:

The Supreme Court of the United States has enunciated that lawyers may advertise in order that the general public may be informed about legal services and fees as pronounced in the recent *Bates* Decision.

There has been and will continue to be considerable discussion about the "content" of advertising messages by lawyers. I note that the Board of Governors has adopted a restricted and conservative proposal to the Supreme Court which the Editor of this publication has indicated may not reflect the consensus of opinion from the members of our bar. [Editor's Page, *Bar News*, October, 1977.]

The most "illuminating" information to come out of the last issue of the *Bar News* is a report by Ms. Patricia M. Johnson [*Bar News*, October, 1977, pp. 13-17] which suggests various other forms of assistance that members of the legal profession can provide to the public. Every day in our mail we receive brochures and pamphlets from various banks, insurance companies, travel agencies, and a multitude of other commercial institutions which describe their services and costs. The legal profession may yet take an example from such organizations and make the same formats available to our clients and the public. Each one of us is proficient in some field or section of the law which could be of benefit to other lawyers and the general public so that if we describe and announce the nature of our legal services to others it may not be necessary to worry about advertising.

After practicing for 20 years in the field of federal immigration and nationality laws, I have written many articles for legal journals and newspapers around the country which has enabled me to prepare booklets, brochures, and pamphlets about this

unique area of the law that is now attracting considerable interest around our country. I take this opportunity to make all this information available "without cost" to every member of the Washington State Bar upon request. I am even prepared to pay the postage as I believe that "one good deed may beget another good deed" and by sharing information among ourselves and the public in this manner, we can all be of better service to the persons who seek assistance in areas of law that have been blocked out to many persons in the past.

DAN P. DANILOV
Seattle

Attached to Mr. Danilov's letter was a list of approximately 20 pamphlets and articles relating to the field of immigration law. This list - as well as each of the various publications - is available upon request to Mr. Danilov's office.

-Ed.



On Santa Claus

My father for many years was one of the editors of the *Ladies' Home Journal*, and he used to write Christmas editorials in July. His deadline was six months before publication. I don't know how he did it but, looking back, I can begin to understand why he used to make miniature snowmen when my mother defrosted the refrigerator.

I have a 30-day deadline which means the latest news in the *Bar News* is about that late. Deadlines put editors into a state of suspended animation. On publication day, they wake up to see if their words are dated or contemporary, if not drifting, slowly, at that point in time.

It would appear much easier for me to write about December "now" at the end of October than it was for my father to write about it in July; however, I face an overriding disadvantage: Lawyers don't believe in Santa Claus. Actually, we do — but we don't like to admit it because we suspect it violates DR2-101(B). Further, a lawyer's belief in Santa Claus can do a real disservice to a client. Any lawyer relying on St. Nick in open court runs the risk of being called on the question by a judge writing an opinion in April. *Helton v. State*, 311 So. 2d 381 (Fla. App. 1975).

On Christmas Eve, 1973, Johnny Diamond Helton was incarcerated in Cell Block "E" of the Alachua County jail. On Christmas morning, he and seven others left without permission. Two weeks later, Johnny called the sheriff and said he would turn himself in, but he didn't show up for another two weeks. It was like a 30-day deadline. Anyway, he was convicted of escape.

His defense on appeal was that he lacked the requisite intent to commit the crime because the jailer gave him vodka for Christmas, 331 So. 2d at 382:

The effect of the inebriating beverage on the appellant and his fellow inmates was colorfully portrayed by defense counsel in closing argument to the jury as follows:

"'Twas the night before Christmas, when all through the jail

Not an inmate was stirring, they couldn't make bail.
The stockings were hung by the cell door with care
In hopes that St. Nicholas would soon be there:
The inmates were huddled alone in their beds
While visions of freedom danced in their heads
And guards in their uniforms and John in his rack
Had just settled down for a long winter's nap,
When up on the roof there arose such a clatter,
John sprang from his bed to see what was the matter.
Away to the window he flew like a flash,
Tore open the cell door and threw up the sash.
When what to his wondering eyes should appear
But a miniature sleigh and eight tiny reindeer,
With a little old driver, so lively and quick
He knew in a moment it must be St. Nick.
More rapid than eagles his courses they came,
And he whistled and shouted, and called them by name:
Now, Macquire, now Bass, now Fillingame,
Newman,
On, Ingram, on Suggs, on Crosby, and Helton.
To the top of the porch, to the top of the wall
Now dash away, dash away, dash away all."

The court affirmed the conviction, saying too much time had passed since Johnny's first drink for it to have impaired his intent. The judge obviously didn't understand deadlines.

Whether you celebrate the 25th of December or the 25th of Kislev, or simply any day you can go into the office without the telephone ringing, may the season greet you well.

JVW



Lawyers Needed in the Legislature

At the present time, lawyers hold remarkably few seats in the Washington State Legislature — just 12 seats out of a combined House and Senate membership of 147.

In other words, lawyers comprise just 8% of the membership of the Legislature. This contrasts with tradition and with past decades during which the great majority of seats were occupied by lawyers.

How could this change have happened? What is responsible for it? And what should we do about it? If anything?

As a beginning, let us admit two things. First, the Legislature, on the whole, can actually run without a majority of its members being lawyers. We would perhaps like to believe otherwise, and it is true that in a great many discussions and debates there is a vital need for trained legal minds, especially on the Judiciary Committees. The fact is, however, that the Legislature has operated for several years with lawyers a minority part of the membership, and state government has not yet ground to a halt.

Second, the number of lawyer/legislators has decreased mostly as the result of attrition and apathy, certainly not as a result of public disfavor of the Bar showing itself at the polls. The increasing length of legislative sessions, increased and continuing duties between sessions, and financial disclosure requirements affecting clients have all caused lawyers to back away from legislative service. For many, the time spent away from law practice has become economically unmanageable. The gap in the Legislature has been filled to a large extent by those persons with independent means of income or by those whose employers are able to keep them on the payroll during their legislative duties.

Despite these conditions, there are very compelling reasons why lawyers should renew their interest in direct involvement in the Legislature.

It has to follow that in the conduct of a government of laws, the involvement of more legally trained minds will produce more pertinent, more understandable, more efficient, more workable

and less ambiguous legislation for the public good. Lawyers are needed not to make the legislative process work, but to make it work *better*.

Lawyers are needed badly in the Legislature also due to the sweeping pressures for social change that have become a vital part of every legislative session recently. We can and should become involved in these important decisions; they are setting precedents that will affect the lifestyle of every citizen dramatically in the future. Consider carefully — as an officer of the courts — the contribution you could make as a lawyer/legislator. Members of the Bar are uniquely qualified for this opportunity for public service.

Where does the Washington State Bar Association fit into the picture? We have, as you know, a very active Legislative Committee which monitors all proposed state legislation and especially that which would affect the judicial system. On behalf of the Bar, the Committee proposes, supports or opposes many bills during each session, and during the time between sessions. During the legislative session just completed, for example, the Committee closely monitored 168 of the 3,000+ proposals introduced. Of the 168, major efforts to support or oppose were directed toward 58 bills.

Your Association considers this function important enough that we have installed a legislation information coordinator at the Bar office, and at the same time, we are actively seeking to retain a legislative representative (to replace Bill Stephens, who recently resigned) who will be our key contact between the Legislative Committee, the Legislature and the members of the Bar.

Service to the Public. Those are the key words that have guided the development of the formal legislative program for the State Bar. On a more personal level, I hope that the words will become increasingly important in the minds of individual lawyers who see an opportunity to serve in the Legislature.

Arbitration Could Bring World Peace To Our Troubled Planet

By ROBERT C. MUSSEHL

Of all the possible techniques to solve international disputes, there is little doubt that arbitration is the method most likely to produce a

peaceful settlement. There are, however, two major problems: the involved countries must agree to submit to arbitration and they must abide



'The Times' – Designed and Engraved by W. Hogarth

by the result. Historically, the problem more often seems to have been the former than the latter; once arbitration has been agreed to, the success rate of arbitration has been remarkably good.¹

A survey of the successful arbitrations throughout history is most impressive. Arbitration was utilized successfully as long ago as 418 B.C., when representatives of Sparta and Argos signed a fifty-year treaty which provided that disputes between their towns should be settled by arbitration in which a neutral town would act as mediator. The United States has solved many of its territorial disputes by arbitration, including the division with Canada of the St. Lawrence River, the Great Lakes and the San Juan Islands.² European and South American countries frequently have used arbitration throughout their histories,³ and India and Pakistan successfully arbitrated a boundary dispute in 1969.⁴

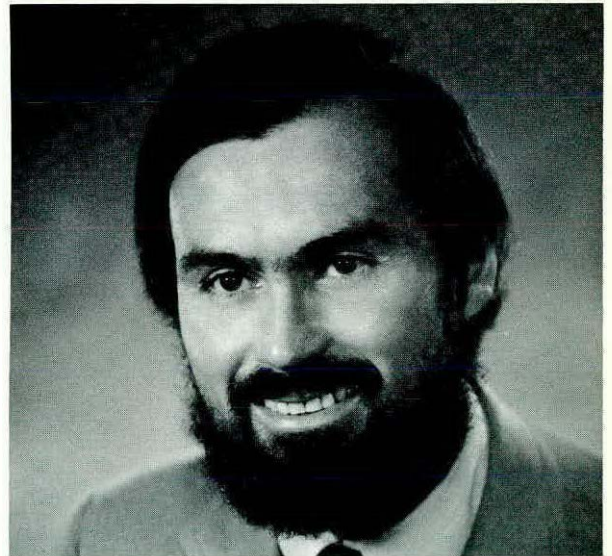
Recent years have seen a renewed effort to establish a system for the compulsory arbitration of international disputes. The legal profession has played a key role in these developments, particularly through the World Peace Through Law Center. Charles S. Rhyne, former president of the ABA, has served as President of the Center. In 1969, at an international conference at Bangkok, Thailand, delegates endorsed a resolution to amend the United Nations Charter to establish a system of compulsory arbitration. The resolution was reaffirmed at the World Peace Through Law Conference held at Abidjan, Ivory Coast in August, 1973.

Many of the countries represented at this and similar conferences were the developing, third-world nations. Arbitration has proven effective throughout history in European and American societies, but its appeal to newer nations accounts for the rekindled interest in and renewed importance of the possible establishment of an international arbitration framework. Because arbitration is a simple process, it is easily adaptable to vastly different foreign legal systems. Arbitration

guarantees that the merits of the dispute will dictate the solution. Its simplicity insures that no country will be at a disadvantage in that no adversary country will "know the game better."

How can an international system of arbitration be implemented so countries will be willing to submit their disputes to the arbitration process? The best answer appears a gradual move toward arbitration, allowing it to be tested in the relatively minor disputes which occur in international relations. Problems such as fishing rights, riparian rights, expropriation of property, international crimes and environmental protection are relatively narrow questions which need not be insurmountable. Moreover, they are the kinds of disputes which have always been handled at the domestic level by attorneys and, as such, could offer a smooth beginning: Participants would be dealing with familiar problems, though at an unfamiliar international level.

To say such disputes are minor is to speak only in a relative sense. Left unsolved, these disputes can easily evolve into major confrontations. Even if the disputes do not lead to armed warfare, their mere existence as unsettled conflicts



Seattle attorney Robert C. Mussehl has chaired the International Law Committee of the Washington State Bar Association — (1974-76), and has served on the ABA Advisory Committee to the World Peace Through Law Center — (1973-75). He received his J.D. degree from the American University, Washington, D.C., in 1966. The author wishes to thank Rodney Q. Fonda for his help in researching and preparing this article, and Judge Edward E. Henry for his advice and counsel.

¹See Stuyt, *Survey of International Arbitration, 1794-1970*, Oceana Publications (1971)

²Henry, "A Plea for Compulsory Arbitration of International Disputes," *American Bar Association Journal*, December, 1968.

³Stuyt, *supra*, n. 1

⁴Henry, *supra*, n. 2



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[†]An average to conservative figure for this area, according to the Washington State Hospital Association.

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raises problems for any affected nation because of the loss of efficiency, loss of productivity and general loss of confidence inherent in uncertainty.

Thus, the effective settlement of these nagging disputes between countries could provide very tangible benefits. Perhaps the greatest consequence of a simple arbitration system, however, would be its more general effect on the conduct of international relations. If countries could learn to settle minor disputes effectively and peaceably and, in so doing, develop some degree of mutual trust and understanding, perhaps in time larger disputes could be settled through the same arbitration approach.

In recent years, great progress has been made using arbitration in the context of international trade questions.

The American foreign policy of detente has incorporated the arbitration system. In an important agreement between the United States and the Soviet Union which provided for greatly expanded trade between the two countries, announced by Secretary of Commerce Peter G. Peterson on October 18, 1972, a provision was included that the two governments "encourage the adoption of arbitration for settlement of disputes arising out of international commercial transactions" between American companies and Soviet trade organizations.⁵

Arbitration of international disputes between countries offers the same advantages as arbitration of international commercial disputes, and domestic disputes, whether commercial or labor. Arthur J. Goldberg, former Supreme Court Justice, Secretary of Labor, and Ambassador to the United Nations, has noted the following advantages of arbitration procedures:

- They can provide a 'cooling off period' for the fever of controversy to subside.
- They can help bring contending parties into touch with one another.
- They can help find the facts.
- They can identify points of agreement.
- They can introduce the calming effect of impartial conciliation or judgment.

- They can mobilize public opinion against excessive claims.
- They can place responsibility on others for which the parties themselves could not accept responsibility.

All of these procedures are needed and adaptable to international disputes.⁶

Justice Goldberg also indicates his belief that an international arbitration framework need not wait for an increased belief in internationalism on the part of individuals:

I have no illusions that institutions alone can solve the problems of persuading sovereign states to accept third party assistance as conciliators or arbitrators. I recognize that the central problem is one of national attitudes. The most important requirement for peaceful settlement is the willingness of nations to settle their differences by peaceful means. However, institutions can help shape national attitudes.⁷

The problem of providing an institutional framework for arbitration presents several possible alternatives. The auspices of one major international organization — the United Nations — can already be utilized through Article 33 of the U.N. Charter which provides for arbitration between consenting countries. Within the U.N., a variety of efforts to amend the charter are underway, and there are several advantages to amending Article 33.

The key feature lacking in the present Article is compulsory arbitration, whereby one party to a dispute could compel its adversaries to settle it, regardless of the magnitude of the problem. Member nations of the U.N. should agree before a dispute arises to permit an adversary to compel arbitration of the dispute, whether major or minor. Such a compulsory system would avoid the structural problems of deciding first whether a given problem is major or minor, and then bringing only minor disputes to arbitration. Most importantly, it would provide a quick and simple method to bring disputes into the arbitration

⁵Holtzmann, "Achievements of the 4th International Congress on Arbitration," *Arbitration Journal* 27:209 (1972)

⁶Goldberg, "Mediation and Arbitration of International Disputes," *Hofstra Law Review* 1:9-14 (1973)

⁷*Id.*, at 12

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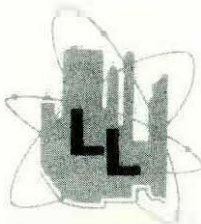
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arena, and thus begin the process of solving them peaceably.

The United Nations however, is so mistrusted by many people that it is unacceptable as a framework for a new international system. One alternative to the U.N. would be a totally new organization, established by treaties and specifically designed to oversee arbitration of international disputes. This alternative would permit arbitration to rise or fall on its own merits being affected only indirectly by problems of other international organizations.

The basic concepts of arbitration greatly simplify the institutionalization problems noted. Structure is important simply to promote the implementation of the arbitration process, but the process itself would remain totally separate from any form of international government. The countries involved in the dispute can maintain control over the process of conciliation, because each country can choose its own representatives on the arbitration panel, and the only "outsider" would be chosen by those representatives.

Inasmuch as arbitration is a simple process which relies heavily on the participants, any organization would be involved only in a supervisory and functional capacity, and would serve primarily as a clearinghouse.

A resolution favoring the first stages of development of an international arbitration process has been presented to the ABA and referred to the ABA's International Law Committee for study and recommendation. This resolution would parallel resolutions already passed by the World Peace Through Law Center conferences and it reflects the increased interest in arbitration in recent years. All the developments of the post-war world, including the increasing role of international trade, the increasing internationalism of every facet of human life caused by developments in transportation and communication, and the urgency of developing peaceful methods of resolving international disputes imposed by the proliferation of nuclear weapons, have brought attention back to the concept of arbitration. Arbitration is a tried and tested procedure, successfully practiced as early as 2300 years ago by the Greeks, and if used wisely, could bring world peace to our troubled planet. □

The World Peace Through Law Center: A Worthy Program

By **EDWARD E. HENRY**

When Charles S. Rhyne was President of the American Bar Association, he appointed Thomas Dewey chairman of a special committee to determine ways and means by which lawyers could play a more effective role in strengthening international and legal institutions.

The Dewey Committee Report urged that lawyers throughout the world work on codification of international law, the strengthening of International Tribunals, the repeal of reservations to World Court jurisdiction, and the development of public support for the rule of law. As a result of this report, under leadership by the ABA with the help of the Ford Foundation, the World Peace

Through Law Center, was created at Athens, Greece, in 1963.

Thus the ABA developed what, in my opinion, is one of the most important and timely programs ever sponsored by the organized Bar.

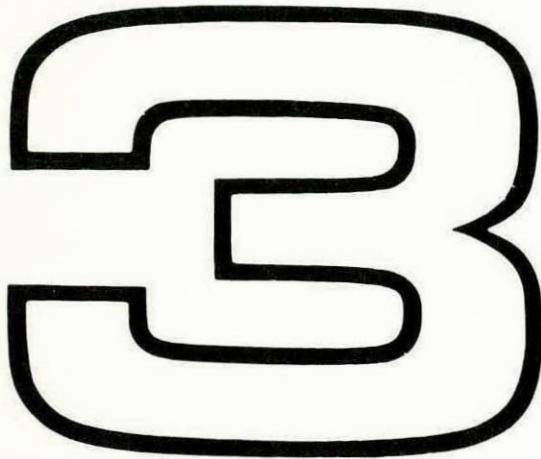
Since Earl Phillips gave me an application to join the World Peace Through Law Center, I have found it to be one of the most fascinating and valuable projects in which I have ever been engaged.

Geneva: 1967

In July, 1967, the Third Conference was held



Judge Edward E. Henry (Ret. King County Superior Court) with members of the Nigerian Supreme Court at Abidjan, Ivory Coast, in 1973. Judge Henry is a Charter member of the World Peace Through Law Center; recipient Ralph Bunche Award, Seattle King County Bar; member International Law Committee, ABA; and associate member of the International Association of Jurists.



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in Geneva, Switzerland, attended by more than 2500 lawyers and judges from over 100 nations. For the first time, lawyers from four communist countries (Romania, Hungary, Poland and Yugoslavia), participated with lawyers and judges throughout the world in discussing ways and means by which "World Peace Through Law" might be accomplished.

At Geneva, The World Assembly of Judges was established, involving the participation of judges of superior jurisdictions throughout the world, including chief justices of the Supreme Courts of 35 nations. Chief Justice Earl Warren was unanimously elected Chairman of the Assembly.

I sat next to Justice Warren, as we listened to one of the most stirring orations I have ever heard in violent opposition to war, delivered by Justice Black, then an 80-year old Justice of our Supreme Court. Impassioned orations also were made by judges from such contrasting systems as Yugoslavia and Spain, as they argued for the independence of the judiciary.

Subjects discussed at this conference included: the establishment of a center for the computerization of international law; the collecting and unifying of probate and inheritance laws of nations; the avoidance of double taxation; the service abroad of judicial and extra judicial documents; the taking of depositions in foreign countries; the industrial property protection and resources of the high seas; and two subjects of special interest to me: *the establishment of inter-continental tribunals for the enforcement of World Habeas Corpus, and the compulsory arbitration of disputes between nations.*

(a) World Habeas Corpus

When I listened to the paper by Luis Kutner of Chicago, Chairman of the World Habeas Corpus Committee, in which he advocated the establishment of world habeas corpus, the idea didn't sink in at first. But after reading his paper and contemplating the impact of what he was advocating, I realized he was onto something of great importance.

The United Nations adopted the Universal Declaration of Human Rights in 1948 without a dissenting vote. They take pride in having done so, yet there is no means of enforcing it. It is

common knowledge that thousands of persons throughout the world are being incarcerated in prisons without trial. They have no recourse, because they do not have access to a writ of habeas corpus.

If regional courts could be established, as advocated by the conference to hear regional disputes, then persons interested could apply to such courts for a writ of habeas corpus to give the imprisoned person a right to a hearing. Thus a nation which has ratified the Universal Declaration of Human Rights could be compelled to recognize world habeas corpus, and the Declaration would have a new meaning to those persons imprisoned without trial throughout the world.

When we look back in our history to the time of the Magna Carta, signed on the plains of Runnymede in 1215, we glorify this great Charter. Yet for hundreds of years men were held in dungeons in England without trial, because they had no way to enforce it. It was not until the 31st year of the reign of Charles II, 472 years later, that Parliament saw fit to enact the Habeas Corpus Act, and thus provided means for enforcement of the Charter.

(b) Compulsory Arbitration

The use of arbitration to settle disputes between nations is not new. It dates back to antiquity. Some of the history, from 418 B.C. to the present day is described in Robert C. Mussehl's article in this issue of the *Bar News*.

In the last two decades of the nineteenth century, there were no fewer than 90 international arbitrations between states. Among those was the Treaty of Washington of 1871, involving the boundary between the U.S. and Canada, which nearly led to war between the United States and Great Britain: "The San Juan de Fuca" case.

As I wander through the San Juans in my little fishing boat, I thank God for the arbitration that gave so much of the San Juans to us.

The dispute was, should the boundary be the Rosario Strait, between Lummi and Orcas Islands? If so, the San Juans would go to Canada. Should it be the Haro Strait Between Vancouver and San Juan Island? Here, the Islands would go to us.

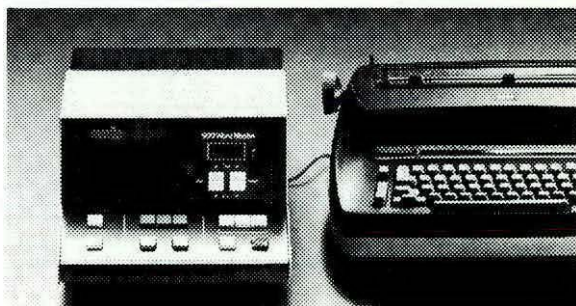
England was a great power then, at the height of her empire. We had just emerged from the

Civil War. Calm heads advised arbitration. The Emperor of Germany was selected as arbitrator, and he decided that the Haro Strait should be the boundary. Thus, most of the beautiful San Juans went to us.

When the United Nations Charter was enacted, arbitration and conciliation was recommended, but not compelled, by Article 33. This situation prompted me to introduce Resolution 22 at the conference which recommended that the UN Charter be amended to provide a means by which a nation could compel its adversary to settle the dispute between them by arbitration.

Although the resolution was not adopted, President Rhyne appointed me as a member of both the International Committee of the Peaceful Settlement of International Disputes, and the United Nations Charter Review Committee.

During the discussion on arbitration, a delegate from Pakistan referred to Resolution 22 as a practical means by which the Kashmir dispute might be settled, and he urged its adoption. The cumbersome procedures of the World Court, as manifested in the West Africa dispute, he said, indicated that arbitration rather than judicial pro-



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cedure might be a more practical way to settle disputes between nations.¹

He was immediately followed by a delegate from India, who violently opposed the resolution, primarily because it provided that the Secretary General of the UN would appoint the chairman, in the event the two nations were unable to agree on one: "We could not tolerate having the Secretary General appoint a representative for us. He might well appoint one who was opposed to us."

During the intermission, I asked a lawyer from Israel: "In your opinion, would Israel have been willing to submit the Gulf of Aqaba dispute to a panel such as provided in Resolution 22?"

"Why of course we would," he said. "That would have been an excellent way to settle that dispute."

I noticed a delegate from Saudi Arabia, and I asked him the same question. "What dispute?"

¹A relatively recent successful use of a three-member panel of arbitrators decided the Rann of Kutch dispute between India and Pakistan. The decision announced in Geneva on February 19, 1968, though bitterly assailed by opposition parties in India's Parliament, has been honored by both governments; troops have withdrawn, and it appears this dispute has been laid to rest.

he responded. "The Gulf of Aqaba," I said, "or the Suez Canal." "With Whom?" he responded. "With Israel," I said. "With Israel? We do not recognize Israel. Of course we could never submit to arbitration with a country we do not recognize."

While I was discussing arbitration with the lawyer from Saudi Arabia, Mr. Dupreu, an attorney from Paris, entered the conversation, and asked me why I did not recommend that the Vietnam dispute be settled by arbitration.

He had a point there, I thought. "Do you believe it could have?" I asked. "*Certainly*. The Geneva Accords should have been honored," he responded.

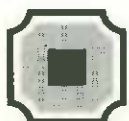
As we went back into session, I paused to reflect. Maybe he had something there, I thought. We say the North violated Sec. 10 of the Accords by being the aggressor. They say we violated Secs. 14, 15 and 16 of the Accords because we failed to remove our troops or to permit a nationwide election to determine the future of Vietnam. Who was right, I wondered. There never was a determination of this dispute by an impartial tribunal, so we went on destroying one another.

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Bangkok: 1969

The next conference was at Bangkok, Thailand in 1969. Here my resolution was modified and approved by the resolutions committee, chaired by Lymon Tondal, a University of Washington classmate who then was President of the New York State Bar Association. It was adopted by the conference by a substantial majority, the Arab delegates ardently approving it.

This was a colorful gathering of over 3,000 lawyers and judges, including a substantial number from the Far East. In the evening, one would sit in the hotel lobby and chat with lawyers and judges from India, Pakistan and Nepal, all dressed in their native costumes.

After Bangkok, 42 members of the UN Charter Review Committee from the United States, Canada, and the Caribbean met for three weeks at the University of Wisconsin at Milwaukee, and drafted proposals for the strengthening of the UN Charter. Many of our members are still working hard to get the UN Ad Hoc Charter Review Committee to consider some of these proposals, and are encouraging Senators from their respective states to consider them.

Belgrade: 1971

The next conference was at Belgrade, Yugoslavia in 1971. Here the President of the Central American Bar Association, from Costa Rica, presented a resolution recommending the ratification of the San Jose Convention of 1969, which proposed an Interamerican Court of Human Rights, similar to the European Court that now sits at Strassbourg, France. His resolution was adopted.

After reading the San Jose Convention, I was very impressed. It was the first time I had heard of it. I am convinced that if more lawyers read it, they also would be impressed. This knowledge led to the recommendation of our State Bar at Spokane that we urge that the United States ratify it.

At Belgrade, Justice Warren Burger presided over a panel, with six justices of the supreme courts of other nations, at a demonstration trial between nations. Two of the leading advocates of the parties were Leon Jaworski of Houston, and Bernard Segal of Philadelphia.

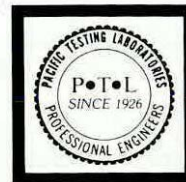
Abidjan: 1973

Two years later we met at Abidjan, Ivory Coast, in Africa, 1973. Here it was a great thrill for me to speak about arbitration before a vast audience, the majority of whom were from all over the continent of Africa. They enthusiastically approved my Resolution 16 which provided:

Resolved that Article 33 of the UN Charter be amended to provide a method by which a party to a dispute may compel an adversary to submit the dispute to arbitration or to the International Court of Justice.

Washington, D.C.: 1975

At the next conference in Washington, D.C. in 1975, over 4000 lawyers, judges and professors were in attendance. The panel on Human Rights revised the resolution I introduced, which proposed the ratification of the San Jose Convention on Human Rights, and added a recommendation to establish an International Court of Human Rights, to which appeals may be made from decisions of regional Courts. This was adopted without a dissenting vote.



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Manila: 1977

At the next Conference held in Manila in August, 1977, the following subjects were discussed at seminars: Human Rights; Law of the Sea; Refugees, International Terrorism; International Court of Justice; United Nations and related Agencies; Legal Aid; Multinational Corporations; Arms Control; Space Law; Narcotic Drugs; Transnational Communications; Environment and Transnational Communications, etc.

Participants at the conferences were encouraged to take back to their countries the hopes and aspirations of those in attendance, and to devote their efforts to convince their brothers and sisters of the necessity of the promotion of world peace and the settlement of disputes between nations by law rather than by force.

The Lawyer's Role

We have a great and ancient profession. From Hamurabi and Justinian and Montesque and Blackstone, down to the present, our profession has been in the forefront of the battle to provide the means of settling disputes by the rule of law.

Thus, throughout the world, wherever lawyers are present, there are courts of some kind for this purpose. But of late it seems that we have been standing by, with mouths agape and eyes observing with awe, our scientific brethren at work in their laboratories, diligently, solemnly and effectively seeking means not only to destroy armies, but to destroy the human race.

It seems that those of us learned in law throughout the world should take advantage of our heritage. We should devote our energies to persuade those who govern us, those who govern our neighbors that disputes between nations must be settled by peaceful means, lest nuclear war destroys all of us from the face of the earth. Thus, the goals of the World Peace Through Law Center should be supported by our profession so that our grandchildren may enjoy the world in which we now live. As the late Chief Justice Earl Warren said at Abidjan:

“The lawyers of the world should be the first to agree that the responsibility is theirs to initiate a movement to have the problems of nations solved by means other than war.” □

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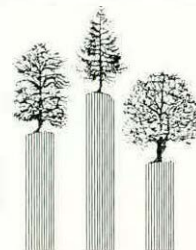
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Fees — Part II

By **KURT M. BULMER**

General Counsel, WSBA

Attorney's fees involve issues other than questions of amount. Two areas in which difficulties can occur is in the charging of interest on overdue fees and the obligation for the expenses of litigation.

The charging of interest on fees is permissible. Many attorneys do so by putting an indication on the bottom of their statements that "1% interest per month will be charged on all overdue accounts." Unfortunately, in some instances a written agreement has not been entered into by the attorney and the client agreeing to such interest rates. If there is no such agreement the attorney may be charging a usurious rate and may be subject to the significant financial penalties proscribed in RCW 19.52.030.

The statutes provide that absent a written agreement the interest which may be charged for the balance of funds cannot exceed 6% per year. If there is a written agreement the attorney may charge 12% per year. Any attorney who is presently charging 12% per year who does not have a written agreement providing for such rates would be wise to consider whether that practice should be continued.

Another area related to fees which frequently results in controversy is the question of expenses for matters related to the representation of a client. Usually disputes in this area arise over expenses for expert witnesses or for transcripts of depositions or trials. Generally, what happens in these situations is that the attorney contacts the witness or court reporter and requests that the services be provided. The entire matter is often set up over the phone and no written record is made.

The services may then be provided but because

the case is lost or for some other reason funds are not available from the client to pay off the witnesses' fees or the transcript costs. While the attorney recognizes that his or her client is ultimately liable the creditor will usually look to the attorney for payment. It is the opinion of the Code of Professional Responsibility Committee that in such a situation the attorney is obligated to pay such expenses. This opinion is based upon the concept that generally the witness or reporter will have relied upon the attorney when agreeing to provide the services. Such obligation can be avoided where the attorney makes clear to the witness or reporter, prior to acceptance of the services, that the attorney is acting solely as an agent of the client and that the creditor must look to the client for payment. If the creditor accepts such arrangement as part of the contract then the attorney would not be obligated to make payment.

Absent such agreement it is "the ethical obligation of the attorney to pay such indebtedness and then look to [his or her] client for reimbursement and assume the risk of non-payment." W.S.B.A. — C.P.R. — Opinion 140 (1969). The attorney's ethical obligation occurs because to disclaim the responsibility may constitute misrepresentation, DR 1-102(A) (4), or "conduct prejudicial to the administration of justice" DR 1-102(A) (5). The same restrictions do not occur for the personal obligations of the attorney or law office obligations, such as rent or payments on equipment, which do not relate to the expenses of a specific case.

Next month we will consider the complex issues surrounding the attorney's lien and mandatory withdrawal.

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WASHINGTON STATE BAR NEWS

Board Approves \$2.1 Million Budget

By JAY V. WHITE

HARRISON HOT SPRINGS, October 7-8 — With one member absent and not voting, the Board of Governors and President Novack unanimously have approved a \$2,114,824.41 budget for fiscal 1978.

This was the first meeting of the Board as reconstituted with three new members and the new president. In September, the former Board voted 6-4 to increase annual dues to a maximum of \$200.

The dues increase is reflected in the total anticipated revenue for 1978 of \$2,115,129. In comparison, the projected actual revenue for fiscal 1977 is \$1,427,196.73 with projected actual expenditures of \$1,472,566.92, resulting in an anticipated deficit of approximately \$45,000. The budget approved for fiscal 1978 represents an increase over fiscal 1977 expenditures of approximately \$642,000; however, it is anticipated that actual 1978 expenditures may reveal a surplus of as much as \$300,000 which presumably would forestall any additional dues increase for five years. *See The Board's Work*, Bar News, November, 1977.

Additional details about the 1978 budget are set forth below.

In other action, the Board took steps directed toward the eventual hiring of a fulltime legislative representative for the bar association; decided upon a format for the forthcoming referendum on the question of whether lay members should be added to the Board; referred to the Disciplinary Board proposals to revise rules governing suspension and disbarment; substantially approved a resolution adopted by the Editorial Advisory Board to permit lawyer advertising in the *Bar News*; and rejected a move to require all Board meetings to be held in this state.

Meeting with the Board was Ex Officio Member Kenneth B. Rice, representing the Young Lawyers Section; and Michele Gentry, law student member of the Seattle-King County Young

Lawyers Section. Board Member Betty B. Fletcher was absent due to a schedule conflict and Board Member David A. Welts likewise was unable to attend the Friday session of the meeting.

The 1978 Budget

The budget for fiscal 1978 was approved with little debate. In September, the Board had reviewed the budget as proposed by the Budget Committee, then comprised of former Board Member David D. Hoff and Board Members Peterson and Jones. The Board deemed the proposed budget inadequate and approved the dues increase, referring the budget back to the committee for revision. Board Member Hemovich was named to the Budget Committee, replacing Hoff whose term on the Board expired at the Annual Meeting.

The Budget Committee subsequently revised the budget and recommended its adoption by the Board. During the Friday session, Hemovich, seconded by Board Member Walker, moved for approval of the budget. At the request of several Board members, notably Halverson and Cressman, the vote was deferred until Saturday morning.

On Saturday, the Board and President Novack unanimously approved the budget. *Tables presented by the Budget Committee, setting forth comparative figures for fiscal years 1977 and 1978, are set forth at pp. 23 and 25.*

Legislative Representative

Terrance C. Schmalz, chairman of the Legislative Committee, met with the Board, following up on his report to the Board in September, to emphasize the immediate need for a full-time person to represent the bar association at legislative hearings in Olympia. He proposed that the Board hire an interim representative.

The Board agreed to employ William L. Stephens, who has served as the committee's representative on a part-time basis, to continue in that capacity at an hourly rate of \$25 until a more permanent arrangement can be made. The Board voted that the Board's Legislative Subcommittee, chaired by Board Member Peterson and comprised of Board Members Jones, Hemovich and Cone, together with Schmalz, will constitute a screening committee to interview prospective candidates for a full-time position as legislative representative and otherwise to develop a total legislative program.

Referendum on Lay Members

At the Annual Business Meeting, the assembly adopted 464-463, a resolution to add two non-voting lay members to the Board of Governors, and by a two-thirds vote, binding upon the Board, authorized a referendum vote by the entire membership. See *Bar News*, November, 1977, pp. 26-27. The Board voted to conduct this referendum as expeditiously as possible, and that the referendum mailing should include a copy of the resolution, together with single statements pro and con. The Board also voted to include in the mailing a reference to the Board's 6-4 vote in June against any proposal to add lay members. See *Bar News*, July, 1977, pp. 19-21.

Board Member Cressman suggested that the Board appoint lay members on a trial basis pending the referendum, but no formal action resulted.

Discipline

Proposals to amend disciplinary rules to increase the length of time a disbarred attorney must wait before petitioning for reinstatement, and to make disbarment permanent but permit suspensions up to five years, were referred to the Disciplinary Board for comment. Cressman abstained in both votes.

Bar News Lawyer Advertising

During its meeting on September 15, the Editorial Advisory Board endorsed four resolutions establishing the policy to govern lawyer advertising in the *Bar News*. The Board reviewed these resolutions and approved them with minor amendments so that they read as follows:

1. RESOLVED, that as a matter of policy, the *Washington State Bar News* should accept advertising by lawyers.

2. RESOLVED, that the format of the lawyer advertising shall be of a classified or directory nature, and that other forms of advertising (e.g. displays, graphics, pictures) shall be deferred for later consideration.

3. RESOLVED, that the acceptance of all advertising in the *Bar News* shall continue to be subject to the requirements of good taste, shall not be misleading or deceptive, and shall comply with any rules as to content adopted by the Washington State Supreme Court.

4. RESOLVED, that the Director of Public Affairs shall have discretion in the lay-out of directory type advertising, and he shall establish a charge for the same based upon the column inch, calculated to produce approximately the same revenue per page as for classified advertising.

Board Member Halverson, seconded by Jones, moved that the following additional resolution be adopted:

RESOLVED, that the Board of Governors' interim rules shall serve as a guideline for such advertising until there is formal action on the subject by the State Supreme Court.

This motion failed 4-4.

Board Meeting Sites

Board Member Halverson, seconded by Jones, moved that all future meetings of the Board be held in this state. The motion failed 6-2. Thereupon, Board Member Peterson, seconded by Jones, moved that in addition to the present meeting no more than two other meetings during the current year (to September, 1978) be held out-of-state. This motion failed 4-4, Peterson, Jones, Cressman and Halverson in favor; President Novack, Cone, Hemovich and Walker opposed.

Discussion then was focused upon the proposed schedule, with a number of Board members objecting to the June meeting being slated for Sun Valley, Idaho. Board Member Walker

moved for the adoption of the proposed schedule with the exception of the June meeting. This motion carried 5-3, with Cressman, Halverson and Jones opposed.

Board Member Peterson, seconded by Jones, moved that the June meeting be held at the bar association headquarters in Seattle. This was followed by a motion to table which prevailed 5-2.

The Board's meeting schedule, as thus approved, follows:

November 4-5	Port Ludlow (Admiralty Inn)
December 16-17	Seattle (Washington Plaza)
January 27-28	Olympia (Tyee Inn)
February 24-25	Tacoma (Lakewood Terrace)
March 17-18	Victoria, B.C. (Empress Hotel)
April 14-15	La Conner (La Conner Inn)

May 19-20	Sun River, Ore. (Sun River Lodge)
June	To be set
July 14-15	Lake Chelan (Inn at Wapato)
August 17-19	Warm Springs, Ore. (Kahneeta)
September 12-16	Spokane (Annual Meeting)

Miscellaneous Topics

In other action, the Board:

- Authorized the Retirement and Health Program Committee to submit a proposal to the State Retirement System to disengage past and present bar association employees;
- Referred proposed Small Claims Courts legislation to the Court Rules and Procedures Committee for further consideration;
- Adopted the position of the Excise Tax Committee of the Tax Section that attorneys practicing within the Quinault Indian Reservation are subject to a tribal business tax.

A Comparison of 1977 and 1978 Budget Figures

REVENUES

	<u>Fiscal 1977 Revenue Per Budget</u>	<u>Projected Actual Revenue Fiscal 1977</u>	<u>Anticipated Revenue Fiscal 1978</u>
Dues	\$692,000.00	\$686,145.00	\$1,321,284.00
Interest	15,000.00	16,496.54	25,000.00
Reimbursements, Disciplinary Costs	2,000.00	2,380.00	2,500.00
Bar News Advertising & Subscriptions	60,000.00	63,000.00	80,000.00
Lawyer Referral	4,000.00	4,000.00	4,000.00
Publications	2,000.00	2,296.00	2,000.00
CLE	360,000.00	421,985.19	435,000.00
Bar Exam	125,000.00	130,000.00	130,000.00
Rent	22,000.00	19,994.00	34,345.00
Fee Arbitration	1,000.00	900.00	1,000.00
Convention	45,000.00	80,000.00	80,000.00
	<u>\$1,328,000.00</u>	<u>\$1,427,196.73</u>	<u>\$2,115,129.00</u>

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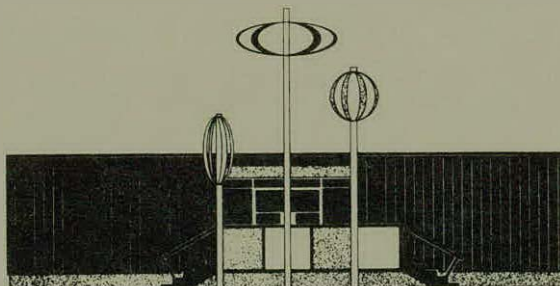
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EXPENSES

	<u>Fiscal 1977 Budgeted Expenditures</u>	<u>Projected Actual 1977</u>	<u>Budget 1978</u>
Salaries	\$341,800.00	\$339,062.00	\$496,200.00
Payroll Taxes & Benefits	61,000.00	61,000.00	79,327.69
Headquarters:			
Rent	106,000.00	106,000.00	115,296.72
Phone	25,000.00	25,000.00	30,000.00
Postage	18,000.00	20,000.00	26,000.00
Office Supplies	17,000.00	25,000.00	30,000.00
Office Equipment	8,000.00	10,000.00	10,000.00
Office Equipment Maintenance	4,000.00	4,000.00	5,000.00
Headquarters Improvements	2,500.00	3,504.92	5,000.00
Office Insurance	4,000.00	4,000.00	4,000.00
Audit	8,000.00	8,000.00	10,000.00
Library	1,000.00	2,500.00	2,500.00
Xerox	15,000.00	15,000.00	20,000.00
Computer Contingency	— 0 —	— 0 —	15,000.00
Printing & Publications	38,000.00	22,000.00	38,000.00
<i>Bar News</i>	72,000.00	78,000.00	91,000.00
Membership Organizations	1,000.00	1,000.00	1,000.00
Malpractice Insurance Program	— 0 —	— 0 —	40,000.00
Discipline:			
Discipline Costs	8,000.00	14,000.00	14,000.00
Outside Counsel	10,000.00	3,500.00	10,000.00
House Counsel	4,000.00	4,000.00	4,000.00
LAC, Disp. Board, Fee Arbitration	7,000.00	7,000.00	10,000.00
Audits of Trust Accounts	5,000.00	— 0 —	10,000.00
Committees	40,000.00	45,000.00	50,000.00
Conferences & Meetings	35,000.00	45,000.00	45,000.00
ABA & Western	15,000.00	20,000.00	20,000.00
Bar Presidents Meeting	4,500.00	4,000.00	4,500.00
Lawyer Referral	8,500.00	8,500.00	10,000.00
Public Relations	15,000.00	15,000.00	15,000.00
Public Affairs	5,000.00	5,000.00	5,000.00
Convention	45,000.00	80,000.00	80,000.00
Functional Management Options	— 0 —	— 0 —	25,000.00
Legislative Representative	16,500.00	16,500.00	89,000.00
Contingency	40,000.00	40,000.00	100,000.00
Bar Exam & Admissions	105,000.00	123,000.00	140,000.00
Credit Union (Advance Only)			10,000.00
CLE	220,000.00	256,000.00	325,000.00
CLE Board			10,000.00
Transfers: Other Funds			
Sections	12,000.00	12,000.00	20,000.00
Clients Security	50,000.00	50,000.00	100,000.00
	<u>\$1,367,800.00</u>	<u>\$1,472,566.92</u>	<u>\$2,114,824.41</u>



Around the State

BENTON-FRANKLIN REPORT

By **STEPHEN T. OSBORNE**

On November 3, 1977, **Robert S. Day**, past president of the Washington State Bar Association, was sworn in as Judge for the Superior Courts of Benton and Franklin Counties. Bob will be a welcome addition to the bench.

Much has happened this past summer, and this reporter has been somewhat remiss in failing to report to the Bar. However, it was fear for my life that resulted in my failing to report the outcome of the Bar's annual Westport Fishing Derby. **John Schultz** was voted rookie of the year for the second straight year.

The group waited with great anticipation for the King to strike, but he struck out again.

The annual golf tournament was won this year by **Duane Taber**. **Andy Bohrsen** of Leavy, Taber, Schultz, Bergdahl and Sweeney, who had the gall to win the tournament his first year here, three years ago, claims that since then Taber has sent him out of town every year on the day of the tournament. Apparently nobody told Andy that an associate is never supposed to beat the senior partner in golf.

Traditionally, the new officers assume office at the conclusion of the golf tournament. The following were elected for the coming year: President, **Rembert Ryals** of Critchlow, Williams, Ryals and Schuster; Vice President, **Michael R. Johnston** of Campbell, Johnston and

Roach; Secretary-Treasurer, **Irene Cleavenger** of the Franklin County Prosecutor's Office.

The former **Irene Asai** was married to **William Cleavenger** this past summer. Will is with the Richland Police Department. What a duo — he catches them and she puts them away, and the Parole Board, . . . well that's another story. More next month.

EAST KING REPORT

By **BARRY J. HASSON**

It has been announced that **Dick Beaudry** is the chairman for the East King County Bar Association's banquet, which is set for February. The event will take place assuming any money is left over for spending by East Side attorneys who will soon be paying, according to sources "close to the scene," double for State Bar dues, and up to quadruple for malpractice insurance next year.

Dan Danilov was the speaker at the October luncheon of the association and gave all of us who attended an interesting history of immigration and naturalization law and the present status of same. It was particularly interesting to note that illegal aliens are now called "undocumented workers." However, a green card is still called a "green card."

New East Side office arrangements are as follows: **Peter J. Lucas**, **Peter J. Glase**, and **Robert J. Chicoine** have formed partnership in Bellevue. **Lawrence P. Gamroth** and **Gary S.**

Wiese have formed a partnership in downtown Bellevue. **William J. Carlson** is sharing office space with **David Reed** in Redmond.

KITSAP REPORT

By **J. MICHAEL KOCH**

James I. Maddock was appointed to fill the fourth judgeship in Kitsap County Superior Court, effective November 1, 1977.

Having recently left the Maddock & Bell firm to become an associate at Walgren, Sexton, McCluskey & Pinckney, **Jim Riehl** was surprised by the fact that **F. Michael Misner** (Gon. '74), who recently moved to Kitsap County from the Aberdeen area, and **Steve Toole** are now partners in the firm of Bell, Misner & Toole. However, Jim can enjoy the view of the Washington Narrows from the new offices of Walgren, Sexton & McCluskey & Pickney at 510 Washington, Bremerton.

Among the new people in Kitsap County are — **Mary G. Gleysteen** (UPS '76) with Kitsap Legal Services; **Gregory P. Norbut**, (Cal. West '77) intern at Soriano & Soriano; **Edward D. Seeberger** (U. of Ore. '72) associated with Smith, Redman & O'Hare, who is a former legislator from Yakima; **James L. Reese, III** (Vermont '77) with Bell, Misner & Toole; and **David G. Wecker** (Gon. '76) with **J. Michael Koch**.

James P. Kintner became a partner in the newly designated

firm of Coons, Hall & Kintner in July.

SOUTH KING REPORT

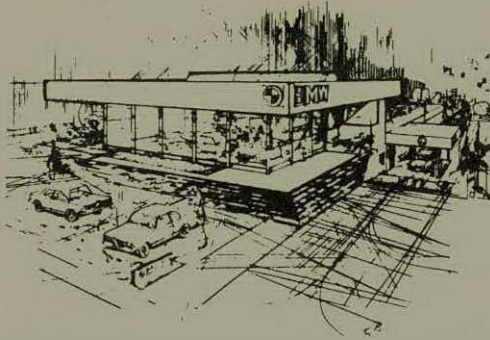
By JAMES L. VARNELL

President's Report. **Edward J. Novack**, President of the Washington State Bar Association, spoke to an overflow gathering of the South King County Bar Association at the October meeting. Guests attending included Court of Appeals judges **Callow** and **Andersen**, King County Superior Court judges **Roberts** and **Eberharter**, Court Commissioners **Niles** and **Ishikawa**, Aukeen District Court judge **Eide**, Roxbury District Court judge **Thompson**, county councilman **Greive**, and newly-appointed King County Superior Court judge **Stephen M. Reilly**.

New Associations. **Robert L. Heaton**, a 1976 graduate of the University of Puget Sound School of Law, is now employed with the Auburn firm of Hawkins, Ingalls & West on a part-time basis while he continues to teach at Tahoma High School. **Gene R. Oliver**, a 1977 graduate of U.P.S., is now associated with **Charles A. ("Jack") Burgeson**. The firm of Snure, Gorham & Varnell *ex. rel.* **James B. Gorham** has been named as the city attorney for the City of Des Moines. We understand that Gorham is attempting to do away with the 1:25 p.m. plea bargaining "calendar" commonly held just prior to trial at the courthouse steps.

Christmas Party. The annual Christmas party will be held at the Meridian Valley Country

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Club in Kent on Saturday evening, December 3. The entertainment will include dinner, dancing to an orchestra/band, as chosen by **Mel Kleweno**, and **Bob Kuvara's** impersonation of Charlie ("The Silver Fox") Rich.

PIERCE REPORT

By **MICHAEL J. TURNER**

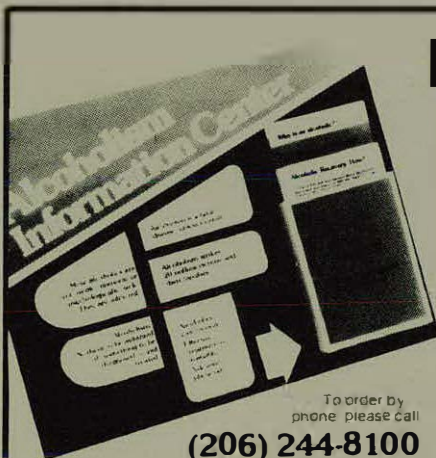
By virtue of the wisdom of the state legislature, Pierce County will finally receive another Superior Court Judge. The following names have been submitted for consideration to Governor Ray: **Paul M. Boyle, Franklin D. Burgess, John B. Krilich, Robert H. Peterson, Thomas R. Sauriol, D. Gary Steiner, Arthur W. Verharen.** I shall

advise you next month or soon thereafter when the appointment has been made.

Congratulations are in order to the Tacoma Pierce County Young Lawyers Section and their officers and Board of Directors. Special recognition is due to **Terry E. Lumsden.** The Young Lawyers Section has received special recognition for its outstanding activities and accomplishments during the year 1976 through 1977. This was based on the ongoing activities of the Young Lawyers Section. Probably the most remarkable and successful feature is the "Tel-Law Program," which is a tape recorded message on a particular subject or area of law which is available to anyone who needs the information by merely phoning the bar office. Presently the

system receives approximately 1,000 phone calls per month. At the last Young Lawyers Meeting, **Marshall D. Adams** was the guest speaker and he discussed various aspects of real estate law.

There are so many lawyers in Pierce County that it has become necessary for some of us to enter into side businesses. **Herb Gelman** has opened a new delicatessen in Israel, which he will call "Cheeses of Nazareth." **Bob Rovai** has entered into the more lucrative field of fishing. He religiously devotes one day of his week to the venture and the word from **Larry Ghilarducci, Frank Girolami, Jim Moceri, Mike Manza** and **Tracy Rosellini** indicates that he has now taken the title of "Cod Father."



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SPOKANE REPORT

By **ROBERT H. HUNEKE**
and **BRYAN P. HARNETIAUX**

Judicial Appointments: The Honorable **Willard J. Roe**, Superior Court Judge for Spokane County, will assume duties as the newly-appointed fourth judge for Division III of the Court of Appeals beginning on January 1, 1978. **Phil Thompson**, currently a Spokane County District Court Judge, has been appointed by the Governor to assume Judge Roe's position with the Superior Court. **Richard Guy**, formerly in private practice in Spokane, has been appointed to fill the new Department 9 Superior Court judge position in Spokane County, commencing January 1, 1978. There are currently two vacancies that will be filled in the Spokane County District Court with the appointments commencing on January 1, 1978 — one by virtue of Judge **Phillip Thompson's** elevation to the Superior Court, and the other as a result of the retirement of the Honorable **Ellsworth Gump**, effective December 31, 1977. Judge Gump who has sat on the Spokane County District Court for 18 years hopes to spend a good deal of time in the future travelling.

Transitions: **Greek Wells**, of the firm of Wells, St. John and Roberts, (patents, copyrights) will retire as an active partner from that firm after 50 years in the practice of patent law. The firm, whose name will be unchanged, will acquire new offices in the Washington Mutual

Building in downtown Spokane. **Hugh Dressel**, in private practice as a sole practitioner, has recently moved his offices to the Paulsen Building in downtown Spokane.

YAKIMA REPORT

By **GARY G. McGLOTHLEN**

John Nicholson, one of Yakima's finest District Court Judges, was elected to the 1977-78 Board of the Washington State Magistrates Association recently at Rosario Resort. Sixty-five District and Municipal Court jurisdictions were represented at the three day meeting and it is reported there wasn't one traffic ticket issued on the way home.

Wiley Hurst is still pursuing

his culinary endeavors and is promoting his newest endeavor, The Phoenix Restaurant, in Yakima.

Fred Velikanje is reportedly now able to sit down at his desk after a recent operation.

Over one hundred lawyers honored **George Twohy** at a "Twohy Roast" Dinner the other night. The roasters at the head table honoring Twohy's more than fifty-one years of active practice of the law each had numerous anecdotes with regard to Twohy's involvement in the law over the past years both legal, nonlegal and almost legal. The head table themselves averaged approximately seventy years of age with **Walt Weeks** (Young Lawyer's President), **George Martin**, **Elwood Hutcheson**, **Bob Willis**, **John Gavin**, **Charles Lyon** (Middle-

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Aged Lawyer's President), **Roberta Kaiser** (Women's Lib Lawyer's President) and **Cutler Worthington Halverson** taking the pot shots at our now retired friend and mentor, **George Twohy**. Twohy's comment to the young lawyers present (not those at the head table) was only that they had better scramble and pick up those clients because there are some damned good clients out there and they pay well if you treat them right.

**SEATTLE-KING
REPORT**

By **JAMES R. DICKENS**

The attorneys in the city extend congratulations to the over 200 new lawyers from this area who successfully passed the

bar exam. We look forward to your future success and participation in bar activities.

Local lawyers have again been busy in bar activities, new associations or firms, and in the successful practice of law. **William H. Gates** of Shidler, McBroom, Gates & Baldwin, was appointed to the Executive Council of the National Conference of Bar Presidents during the annual meeting of the American Bar Association in Chicago. Bill continues the trend of active participation by Seattle lawyers as he replaced **Betty Fletcher**, whose term on the Executive Council expired in August.

A new partnership in the area is Puro & Haynes. The partners are **Ken Puro**, formerly in private practice, and **George Cleve Haynes**, previously the law clerk/bailiff to Judge **Norman B.**

Ackley. They will engage in a general practice in Suite 1330, The Joseph Vance Building, Seattle.

New attorneys at Karr, Tuttle this fall include **Richard J. Omata**, formerly field attorney with the NLRB, **William J. Price**, recent UPS graduate, and two former law clerks to 9th Circuit judges — **Janis Cunningham** having clerked for Judge **Eugene A. Wright** and **Tim McDevitt** was a clerk for Judge **John F. Kilkenny**.

Finally, in a successful practice, **Truman Castle** was the plaintiff's attorney in a personal injury case in Vancouver, Washington, in which the jury returned a verdict of over \$700,000 on October 13. Maybe Truman will now take a vacation so defense attorneys can get a short rest. Right, Truman? □



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JUDICIAL COUNCIL REPORT

By **THOMAS HOEMANN**
Judicial Council Attorney

Juvenile Rules Task Force Appointed

The enactment of the Juvenile Court Act of 1977, (Chapter 291, Laws of 1977, First Extraordinary Session) will result in substantial changes in Juvenile Court procedures when it goes into effect in July, 1978. The Act prescribes new procedures for proceedings relating to child dependencies, alternative residential placement of a child, termination of the parent-child relationship, and the treatment of alleged juvenile offenders. It will also establish a form of mandatory sentencing for juvenile offenders. The existing Juvenile Court Rules (JuCR) are, in many respects, incompatible with the new Act.

At its October meeting, the Judicial Council approved the appointment of a Task Force to study the Act and draft a set of proposed rules for recommendation to the Supreme Court. Interested agencies and organizations were invited to appoint representatives to the Task Force. The Task Force has now been established and is ready to begin its work. Because of the sweeping procedural changes made by the Act, it is expected that the Task Force will propose a completely new set of rules rather than recommend revisions to the existing rules. Hopefully, the proposed rules will be ready for approval by the Council and submission to the Supreme Court early next year in order to give the bench, bar and other interested persons sufficient opportunity to review and comment upon them.

The Judicial Council and the Task Force invite comments and suggestions with respect to the drafting of the rules. Correspondence may be sent to the Judicial Council, 508 Condon Hall, 1100 N.E. Campus Parkway, Seattle, WA 98105. □

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"Trust Accounts and the Spot Audit Rule" — A First Step in CLE Programming at the Local Bar Association Level

By **JOHN J. MICHALIK**
*Director of Continuing Legal
Education*

The question of the availability of continuing legal education programs to all members of the State Bar Association has, for some time, been a matter of concern to both the Board of Governors and the CLE Committee of your State Bar Association. Although the list of locations where the Committee presents its live CLE seminars is constantly expanding, attorneys located outside of the major metropolitan areas face the very real problem of having to travel some distance to attend those seminars — a problem which, if anything, is made all the greater by the advent of mandatory CLE. Local Bar Association Presidents across the State have expressed similar concern and asked for assistance from the State Bar. We think we have hit upon at least a partial solution: videotaped CLE programs.

I would like, very briefly, to use this space to discuss our initial effort in this area, its method of distribution and some future plans we have for using videotape programs as an instructional devise.

The first effort involves a program dealing with a timely and important topic for all members of the Bar: the proper maintenance of trust accounts and the provision of, and procedures under, the so-called Spot Audit Rule recently adopted by the State Supreme Court. This program, of approximately one hour in length, examines the problems created by the improper handling of trust accounts, the basic principles underlying proper trust account procedures and some suggested solutions to handling the problem in your own office. In addition, the provisions of the basic Spot Audit Rule are explained, as are the procedures that will be followed — including how attorneys will be selected for trust account audits — in implementing the Rule. The panelists for the program include: Edward J. Novack, current State Bar President; J. David Andrews, a Seattle attorney who is also the present Treasurer of the

ABA; Paul W. Steere, Seattle, the Chairman of the State Bar's Disciplinary Board; State Bar General Counsel Kurt M. Bulmer; Robert S. Mucklestone, Seattle, a past Chairman of the ABA's Economics of Law Office Practice Section; and Paul N. Luvera, Jr., Mount Vernon, a recognized expert in the area of law office management.

This color videotape program, produced with the assistance of Instructional Media Services at the University of Washington, is presently being made available to all local bar associations in the State for use in connection with local bar meetings. The tape is, itself, accompanied by written materials including analysis and explanation of the Spot Audit Rule and procedures thereunder, hints and suggestions for proper trust account maintenance and samples of commercially available record-keeping systems. In addition, a representative of either the Bar Association's Legal Staff or a member of its Office Practice Committee will be present at each showing of the program to comment on the tape and answer questions. The attendance by an attorney at this program qualifies for 2 credits under the mandatory CLE Rule.

Response by local bar Presidents to this program has been encouraging — a number of showings are scheduled for December and after the first of the year. If your local bar has not yet made plans for a presentation of this program, I would urge you to raise the matter with your local bar leadership — the program is certainly an important one.

As noted, "Trust Accounts And The Spot Audit Rule" is but the first of a series of videotaped programs we hope to make available to local bar associations throughout the coming months. Some of these programs will be produced and taped by the State Bar Association; others will be purchased by the State Bar from other organizations, such as ALI-ABA, PLI and so on. As those programs, generally on substantive law subjects, become available, they will be offered to local bar associations on much the same basis as this pioneering effort. □

THE RALPH BUNCHE AWARD: A BEGINNING

By FLOYD F. FULLE

One of our modern day prophets of the law, J. Harris Morgan of Greenville, Texas tells us that his father practiced law in Greenville before him and had a sign in his office which said, "Begin, the rest is easy." In the area of "World Peace Through Law," the Seattle-King County Bar Association has begun.

How does one begin in this area? The World Peace Through Law Committee of the Seattle-King County Bar Association chose the Ralph Bunche Award.

Establishing the Award

This was done in the 1972-73 fiscal year.

First, proposed criteria were drawn up including:

1. A recipient was to be a person who has made an outstanding contribution to World Peace Through Law, such as an act of courage; a scholarly work such as writing a book; or demonstration of administrative capability, all done to strengthen the foundation for a non-violent world.

2. A certificate would be given to symbolize the Award.

3. No geographic limits would be placed on the home of potential recipients (such as "domiciled in the Northwest"), but preference would be given to qualified persons in the Northwestern part of the United States and the Western part of Canada.

4. The name of an eminent and appropriate person would have to be selected to use as the name of the Award, and Ralph Bunche would be among those proposed. Some of these ideas were then tested on friend and lawyer, Robert D. Ashley. Bob is well grounded in international and public affairs and was a most helpful sounding board.

The next step was the presentation of rough guidelines of the award and a discussion of them with members of the World Peace Through Law Committee.

In this committee discussion, many committee members contributed, with Griffith Way, Donald D. Fleming, Judge Edward E. Henry, Douglas Shaw Palmer, Tom Dreiling, Croil Anderson, Clifford Benson, Henry Heckendorn, Robert C.

Mussehl and Don Van Fredenberg taking particularly active roles.

An appointment was made for presentation of the proposal to the Board with Executive Director Helen Geisness. As has been true in so many other Seattle King County Bar Association programs, her professionalism was a great aid in the decision-making process. The chairperson of the Board that year was Betty B. Fletcher. A number of board members contributed to the discussion, including John Darrah, Bill Wesselhoeft and Bill Neukom. After considerable discussion by the board, Bill Neukom have a particularly strong statement in support of the idea of the award, and the Board approved creation of the award.

Paul Edwards, a UNICEF representative, called upon Dr. Bunche's widow in New York and told her of the plan to create the award in recognition of her late husband's work. She was pleased and gave the project her blessing.

In 1972, Robert C. Mussehl, as a member of the Board of Trustees of the Seattle-King County Bar, was named the liaison person between the Board and the World Peace Through Law Committee. He was most helpful in the creation of the award,

and allowed the Committee to use a miniaturization of one of his oil paintings on the award certificate. The painting symbolizes the unity of the races of mankind and the miniaturization adds a colorful touch to the certificate. A Seattle commercial artist, Robert Matthiesen, reproduced the certificate using a photograph of Bob's work.

Ralph Bunche

A bit of background on Ralph Bunche does much to reveal the spirit of the award which carries his name. The life of Ralph Bunche illustrates the realization of many features of the American dream. Ralph Bunche was the grandson of a slave. He graduated from UCLA, and thereafter obtained a Ph.D. from Harvard University in political science. Dr. Bunche worked with Sweden's Gunnar Myrdal and the Carnegie foundation in Dr. Myrdal's comprehensive study of black-white relationships in the United States. Dr. Bunche worked in the War Department in the African and Far Eastern affairs section, and then served in the office of Strategic Services during World War II. He moved to the State Department in 1944 and participated in the planning conference for the United Nations Organization at Dunbarton Oaks, N.H. Dr. Bunche attended the San Francisco conference in 1945 for the founding of the United Nations, and many of his recommendations became a part of the UN charter.

In 1946, the then Secretary General Trygve Lie appointed Dr. Bunche director of the UN Trusteeship Council. He was later selected to work on the UN Special Committee attempting to arrange peace between the Arabs and the Jews in Palestine, and was the chief aid to the official mediator, Count Folk Bernadotte. Dr. Bunche was frequently under sniper fire while in this role. Under Dr. Bunche's direction, a truce was negotiated and, in 1949, an armistice was arranged. Dr. Bunche received praise from both Arab and Jewish representatives for his effort. In 1950, Dr. Bunche was awarded the Nobel Peace Prize in recognition of his successful work.

Recipients of the Award

(a) *Roy L. Prosterman (1973)*

The selection committee under the chairmanship of Seattle (and Tokyo) lawyer Griffith Way, chose Roy L. Prosterman as the first recipient in

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1973. Dr. Prosterman has been tireless in the pursuit of peaceful resolution of conflict, with particular emphasis upon avoiding the causes of armed conflict through land redistribution in less developed nations. He has consulted with foreign governments, including countries in Southeast Asia, the Philippines, Brazil and the Middle East. Dr. Prosterman has written and spoken prolifically on land reform and other areas of international law, and has been a very active leader and board member of the World Without War Council.

Upon receiving the first Ralph Bunche Award Dr. Prosterman spoke to a large luncheon meeting of the Association at the Plymouth Congregational Church, and painted a picture of an overpopulated world with increasing armed conflict. Toward the conclusion of his presentation, Dr. Prosterman challenged the members of the Association as follows:

Concerning all these possible forms of involvement and support, let me point out that Athens, in the 5th century B.C. was a city considerably smaller than Seattle, yet it contributed many of the basic ideas of Western civilization. We should not disregard the real

possibility that a significant group of our own talented citizens, committed to working together on these problems, could make a very large contribution to the survival of humankind. . . . The problem *is* to survive or not to survive. It is as simple as that. The goal of "Zero Lethal Conflict" *is* achievable, by human effort, well within the bounds of available techniques and resources. But . . . it will need many more hands, and brains, more support of every kind, than it now has on this planet. At least a measurable fraction of all the best minds, and most dedicated human beings of this and the next generation, will have to join in achieving that goal, that *achievable* goal. Or else, in a space of time that I shall not try to guess within years, or even decades, but which will certainly be very, very tiny in comparison to the human race's total life span thus far on this planet, within that eyblink of added time, humanity will disappear from the face of the earth, self destroyed. The choice — again I repeat, the realistic, open, choice — is ours.

(b) *Judge Edward E. Henry (1974).*

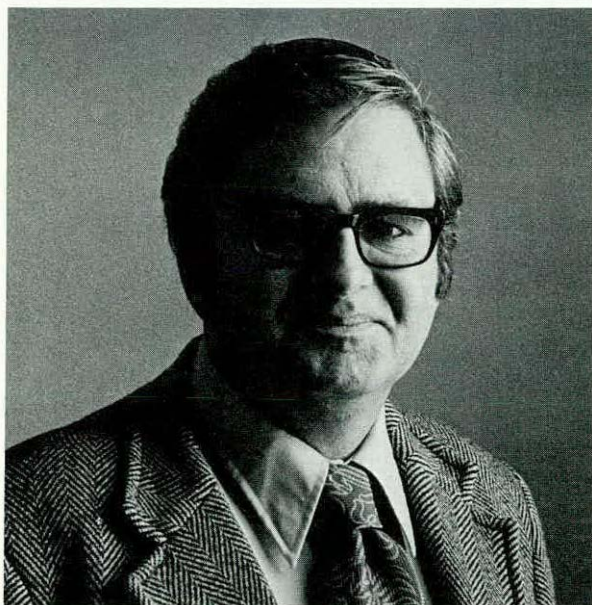
In 1974, Judge Edward E. Henry was chosen to receive the Award. Charles Z. Smith made a most interesting introduction, and Judge Henry stressed the role of the lawyer in advocating the use of law and legal methods in the non-violent resolution of conflict on the international level. Judge Henry called his fellow lawyers to the task of constructing machinery for non-violent conflict resolution:

Those of us learned in the law throughout the world should take advantage of our heritage. We should devote our energies to persuade those who govern us that disputes between nations must be settled by peaceful means and that this must be done before mankind is destroyed.

In this issue of the *Bar News*, Judge Henry elaborates upon these views and describes his work with the World Peace Through Law Center.

(c) *Charles S. Rhyne (1976)*

The third Ralph Bunche Award was presented in 1976 to Charles S. Rhyne before the Annual Meeting of the Seattle-King County Bar Associa-



Seattle attorney Floyd F. Fulle has been active with the World Peace Through Law Committee of the Seattle-King County Bar since 1972, and conceived the idea of the Ralph Bunche Award. He graduated from Columbia Law School and was admitted to the Washington Bar in 1956.

tion. Charles S. Rhyne is a distinguished lawyer who has argued and won many cases before the United States Supreme Court. Mr. Rhyne's outstanding contribution to World Peace Through Law consisted of conceiving and implementing the establishment of the World Peace Through Law Center, with offices in Geneva, Switzerland, and Washington, D.C. In accepting the award, Mr. Rhyne discussed the purposes achieved by the Center, stating:

Above all we are acquainting the lawyers, judges, law professors and law students of the world with one another. More than 23,000 have attended the seven world conferences sponsored by the Center.

Mr. Rhyne described the "demonstration trial" technique used at each conference:

Our conferences have developed the format of a "demonstration trial," in which seven Chief Justices of nations from differing governmental systems hear arguments on such subjects as liability for damages caused by space ship crashes and state responsibility for those who hijack airplanes. The judges

hand down written decisions. The briefs and arguments are published in separate volumes. . . . Through these trials, they learned that there is a peaceful method of conflict resolution in which their own judges and lawyers can better represent them and obtain a more humane decision than their armies or weapons could. It is a method that may not bring everyone a pleasing result (as no nation or person likes to lose) but under which decision by death is avoided.

Charles Rhyne echoed a call to action expressed by Dr. Prosterman and Judge Henry:

No group is better equipped by training, knowledge and experience than the judges, lawyers, teachers of law, and law students to translate the great ideal of a world ruled by law from concept into reality. I invite you to be a part of this effort.

We have begun. Although the rest may not be easy, our three Bunche Award recipients have described the goal, and have challenged us to strive for its fulfillment. □

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The Rules of the United States District Court for the Western District of Washington

By HUGH HAFER

The Rules of the United States District Court for the Western District of Washington have been amended. Those practicing before the Court should have at their desk a copy of the rules and amendments which became effective on June 1, 1977. The rules are published by Book Publishing Company, 2518 Western Avenue, Seattle, 98121. Copies of the June 1, 1977 amendments are available at the Clerk's Office.

The Rules of the Western District are divided into five parts: General, Civil, Admiralty, Criminal and Magistrates. This article concerns itself with the June 1, 1977 amendments to the General (GR) and Civil Rules (CR). Because the amended rules are relatively simple no purpose is served by paraphrasing the rules and amendments. The reason for this article is to note that there are Local Rules which have been amended and to direct the reader's attention to the more significant amendments.

If you are working with out-of-state counsel, compliance with GR 2(d) is mandatory. Out-of-state counsel is required to file a detailed appli-

cation. Local counsel must certify "that he is *authorized and will be prepared* to handle the matter" if out-of-state counsel is unavailable. As a practical matter this means that local counsel must maintain and be familiar with the entire file. Stated differently, GR 2(d) prohibits a member of the Western District from acting as accommodation counsel.

Motions (except for summary judgment) are to be noted for the *third* Friday after the motion is filed. Summary judgment motions are to be noted for the *fourth* Friday after filing. Responsive papers must be filed no later than the Monday preceeding the return date. Briefs and affidavits must be filed *with* the notice and motion. The same rule applies to opposing papers. The Clerk will not file your papers unless it affirmatively

Hugh Hafer is a partner in the Seattle law firm of Hafer, Cassidy & Price. He is a graduate of St. Martins College, in Olympia and obtained his law degree from the University of Wisconsin. He became a member of the Washington State Bar in 1963.

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appears that a copy has been delivered to the Judge or Magistrate. This can be accomplished by a certificate of counsel or obtaining a copy received stamp from the Judge's secretary. CR 5(a) and 6(d).

Motions to shorten time should be filed with the Clerk after service on the Judge and opposing counsel. For obvious reasons, such motions need not be "noted." Counsel opposing a motion to shorten time should respond forthwith.

A rule, frequently overlooked by attorneys (not Judges), requires that counsel meet and confer with respect to the filing of a motion to compel discovery. A certificate of compliance with this Local Rule is a pre-condition to filing a discovery motion. CR 37(g).

Summary judgment briefs in excess of 20 (8½ × 13) pages or 24 (8½ × 11) pages will not be accepted by the Clerk "without prior approval" of the court. Briefs in support of non-dispositive motions are limited to 10 (8½ × 13) or 12 (8½ × 11) pages. Although amended CR 7(c) does not expressly prohibit micro-dot briefs, the tenor of the rule suggests that long briefs are not favored.

Oral argument is *not* part of normal motion practice. If the Judge wishes to hear oral argument counsel will be notified by the court of the date and time for argument.

The pretrial order governs the presentation of your case. CR 16 sets forth the rules which must be followed in settling a pretrial order. Pretrial orders supersede the pleadings and absent extraordinary circumstances cannot be amended at trial. Hence, extreme care must be taken in drafting this document.

Jury instructions will be read, prior to argument, "with approval of counsel;" [CR 51(a)] and will "be given to the jury when they retire to deliberate their verdict" [CR 51(b)]. Attorneys are prohibited from contacting jurors after trial without "first having been granted leave to do so by the court." CR 47(b). Default judgment, after appearance, may be obtained from the Clerk "upon five days notice . . ." CR 55(a). If a default is entered by the Clerk, review is "pursuant to F.R.C.P.¹ 55(c)." Other orders can be entered by the Clerk — e.g. costs, service

¹Federal Rules of Civil Procedure.

by persons other than the Marshal and orders substituting attorneys. See: CR 54, 55 and 77(c). An *order* permitting substitution of counsel is required in the Federal Court GR 2(f) (4).

The rules of the Western District are indexed; however, the interrelationship of the rules is not immediately apparent. A cross-reference is appended.

-
- CR 4: See CR 41(b) which relates to dismissals by the Court.
- CR 5: See also CR 79(e) (4) relating to the filing of judgments, findings and conclusions of law.
- CR 6: See also CR 78 which defines "Motion Days." Counsel is reminded that the Federal Rules of Civil Procedure and these Rules authorize the Clerk to enter certain orders — including a default judgment after appearance. Separate rules govern such matters. *See e.g.*: CR 54, CR 55 and CR 77.

- CR 7: See also CR 10(e) (3) which requires the sequential numbering of exhibit pages. CR 37 requires a conference of counsel prior to submission of discovery motions.
- CR 10: Endorsement by counsel of proposed judgments and orders is required by CR 79(e) (7).
- CR 16(f): See also GR 3(a) relating to the exclusion of testimony and exhibits and CR 43(g) relating to marking of exhibits.
- CR 16(1): See CR 102 which also treats complex and multi-district litigation.
- CR 41: See also CR 77(e) relating to dismissal if a receiver has been appointed.
- CR 43: See also GR 3(a) which relates to the exclusion of testimony and exhibits.
- CR 77: See also CR 54 relating to cost judgments and CR 55 relating to default judgments. □

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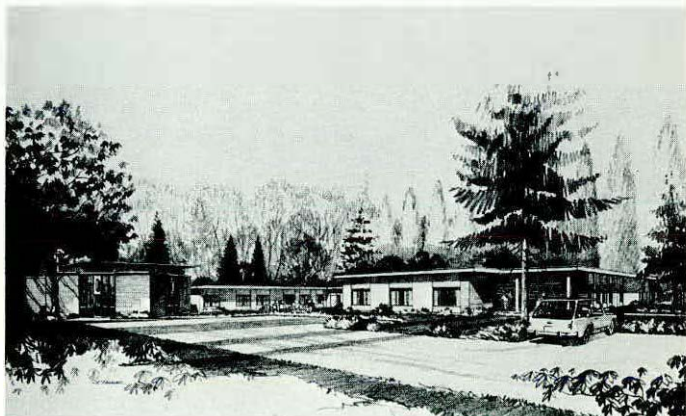
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Index to Volume 31

With this issue, we begin what we anticipate will become an annual year-end feature: an Index of the year's content of the Bar News. We hope that the Index will not only make the Bar News a more useable source of information for lawyers, but also encourage more members of the bar to contribute articles to this journal inasmuch as the Index will assure that their work will not be "lost" to all but those who remember everything.

This is a "double" Index, with titles listed in chronological order both by subject and author. We have indexed only "substantive" items, including all feature articles; major news reports, such as "The Board's Work"; columns such as "Office Practice Tips" and "Ethics From the Inside"; and reports from Committees, Departments and Sections which appear to contain information of future interest to the practitioner. This first Index necessarily is experimental; after there has been actual experience in using it, there undoubtedly will be a need to expand it, perfect the subject headings used and add cross-references. Suggestions as to how the Index may be improved — and proposed articles for the 1978 Bar News — will be welcome and should be directed to the editor at the law offices of Houghton Cluck Coughlin & Riley, 900 Hoge Building, Seattle, Washington, 98104. Telephone: (206) 623-6734. — Ed.

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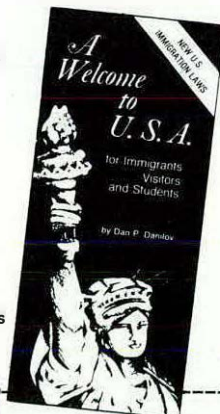
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Bellevue Office Space Available: 1,600 sq. ft., new building under construction, city center, parking under, air-conditioning, utilities, office layout to tenant specifications, lease occupancy December 1977. Phone (206) 454-7277.

Wanted: Used office furniture and equipment for three attorneys' offices and one secretarial-receptionist station. (206) 285-1084.

Wanted: Seattle attorney with growing litigation practice desires young aggressive firm or sole practitioner 30-40, preferably with business-commercial practice, to share space with view toward future partnership. Submit resumes in confidence to Box 12, WSBA, 505 Madison Street, Seattle, Washington 98104.



Calendar

- Dec. 2 CLE Seminar: **Commercial Law I**, full day, \$45.00, Thunderbird Motor Inn, Yakima, Washington
- Dec. 9 CLE Seminar: **Commercial Law I**, full day, \$45.00, Greenwood Inn, Olympia, Washington
- Dec. 16 CLE Seminar: **Commercial Law I**, full day, \$45.00, Davenport Hotel, Spokane, Washington
- Dec. 20 CLE Seminar: **Commercial Law I**, full day, \$45.00, Exhibition Hall, Seattle Center, Seattle, Washington

LAWYER PLACEMENT

1. Thirteen person Vancouver Law Firm is seeking an energetic attorney interested in litigation. 1-3 years experience preferred. Position available immediately. Send resume to P.O. Box 1086, Vancouver, Washington 98660.
2. Grays Harbor County is seeking a Deputy Prosecuting Attorney whose primary responsibility would be the prosecution of felony offenses. Applicant must be a member of the WSBA, with at least one year of trial experience, preferably in prosecution. Salary up to \$21,000, D.O.E. Send resume to P.O. Box 550, Montesano, Washington 98563.
3. Seattle firm is seeking a lawyer with a minimum of five years experience in corporate/business practice, terms open. Must be a member of WSBA. Send resumes to Box 9, c/o WSBA. All replies will be handled confidentially.
4. Medium size law firm in Spokane desires attorney with four to five years experience in private practice in the area of business law. Please submit resumes to WSBA, P.O. Box 19.
5. Director, Hospital Legal Affairs: \$1,427-2,030/month. Direct, assist in legal, administrative issues of University Hospitals. Legal liaison between Hospitals and the State Attorney General's Office. Requires: J.D. degree or equivalent from accredited law school; must be eligible for membership in WSBA. One year general law practice or special postgraduate academic background in health law or health related field. Send resumes: UW Hospitals Personnel, 326 9th Avenue, Seattle, 98104.
6. Seattle law firm seeks outstanding associate with about 2 years experience in complex litigation, to work primarily on plaintiffs' antitrust cases. Position available immediately. Reply Box 17, care of WSBA.
7. Four man Seattle law firm with primarily business and commercial practice desires associate to begin in fall, 1977. Must have good academic record, law review helpful. Send resume to Box 45, WSBA.

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