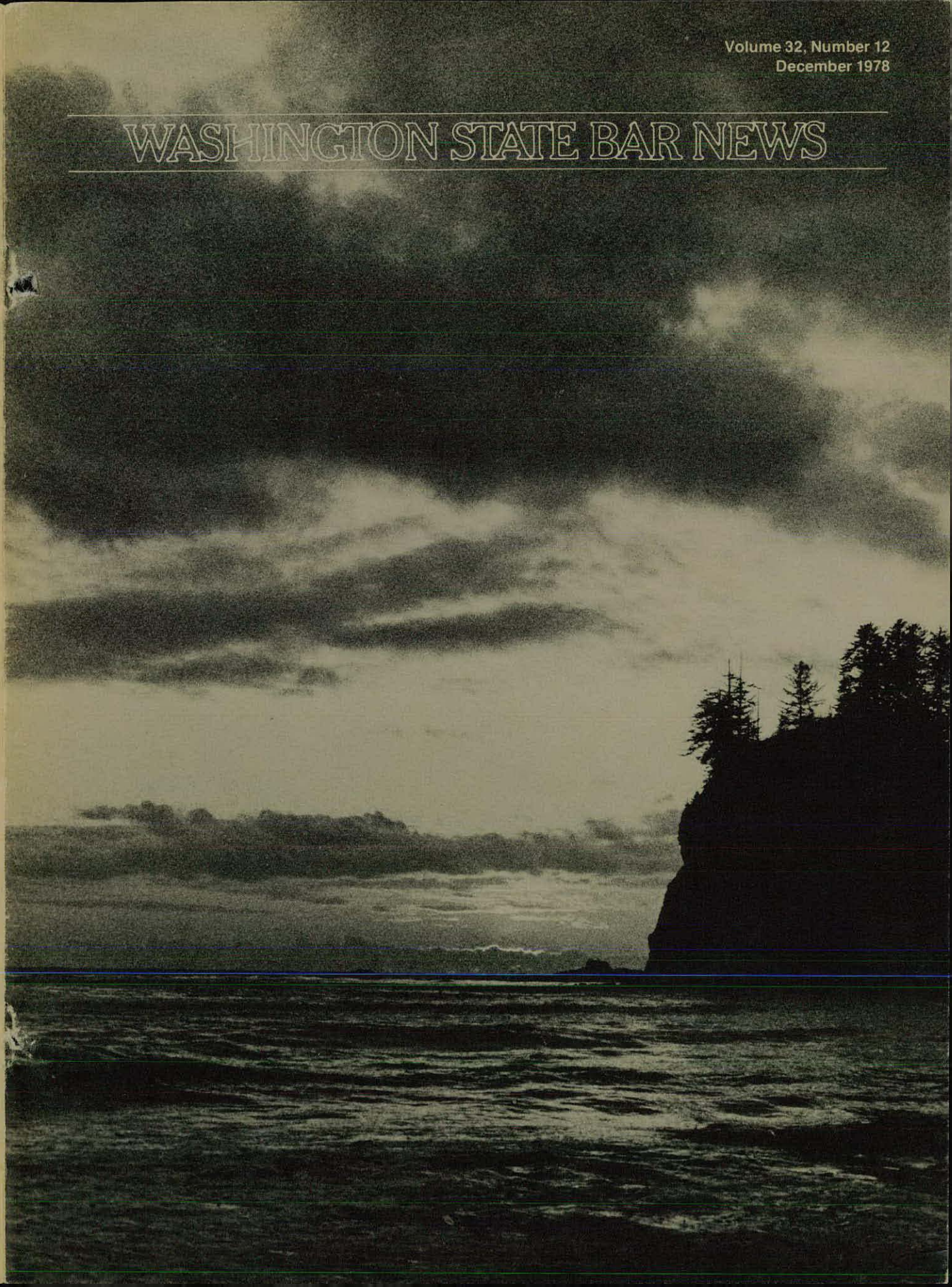
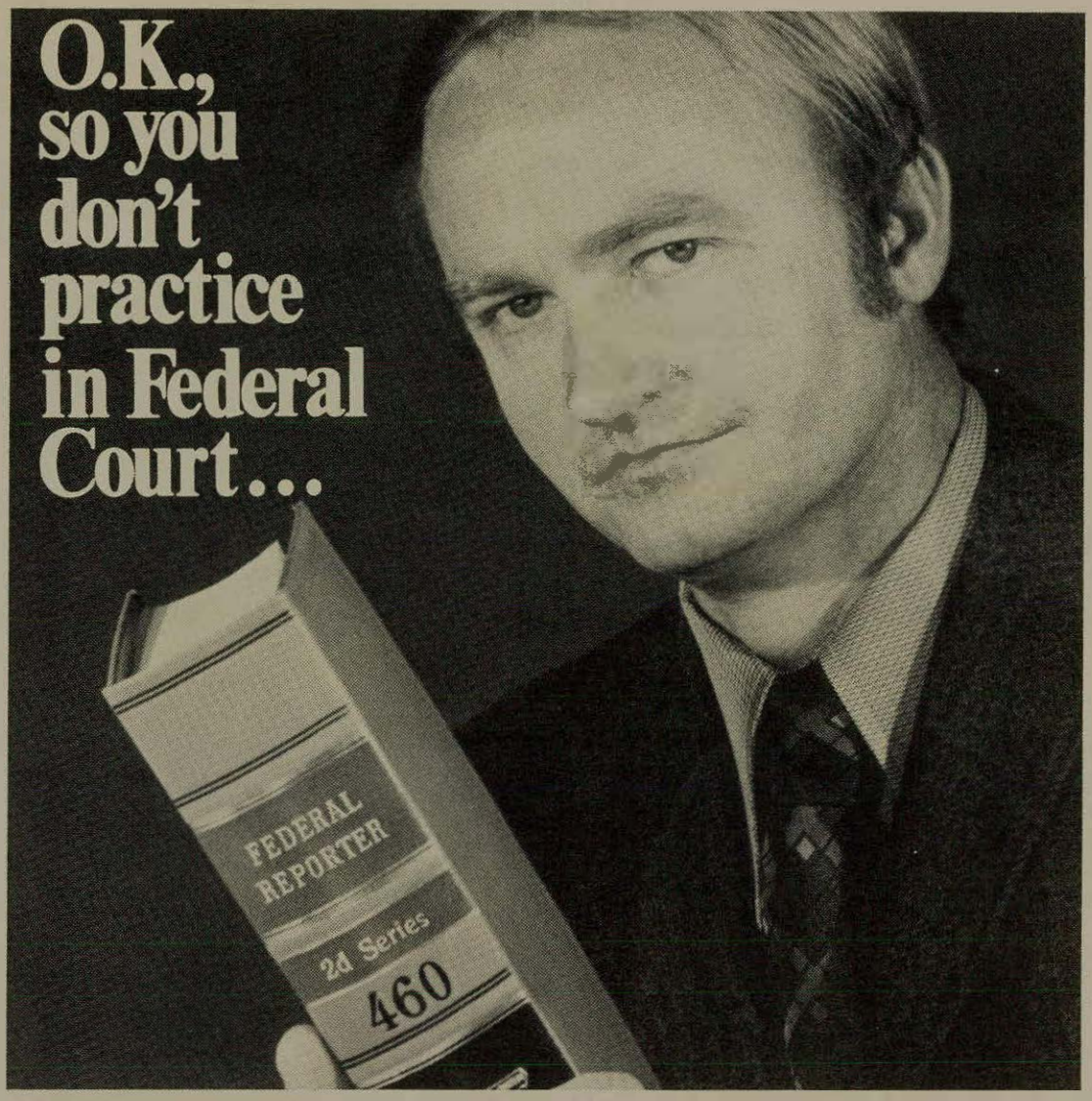
Volume 32, Number 12
December 1978

WASHINGTON STATE BAR NEWS





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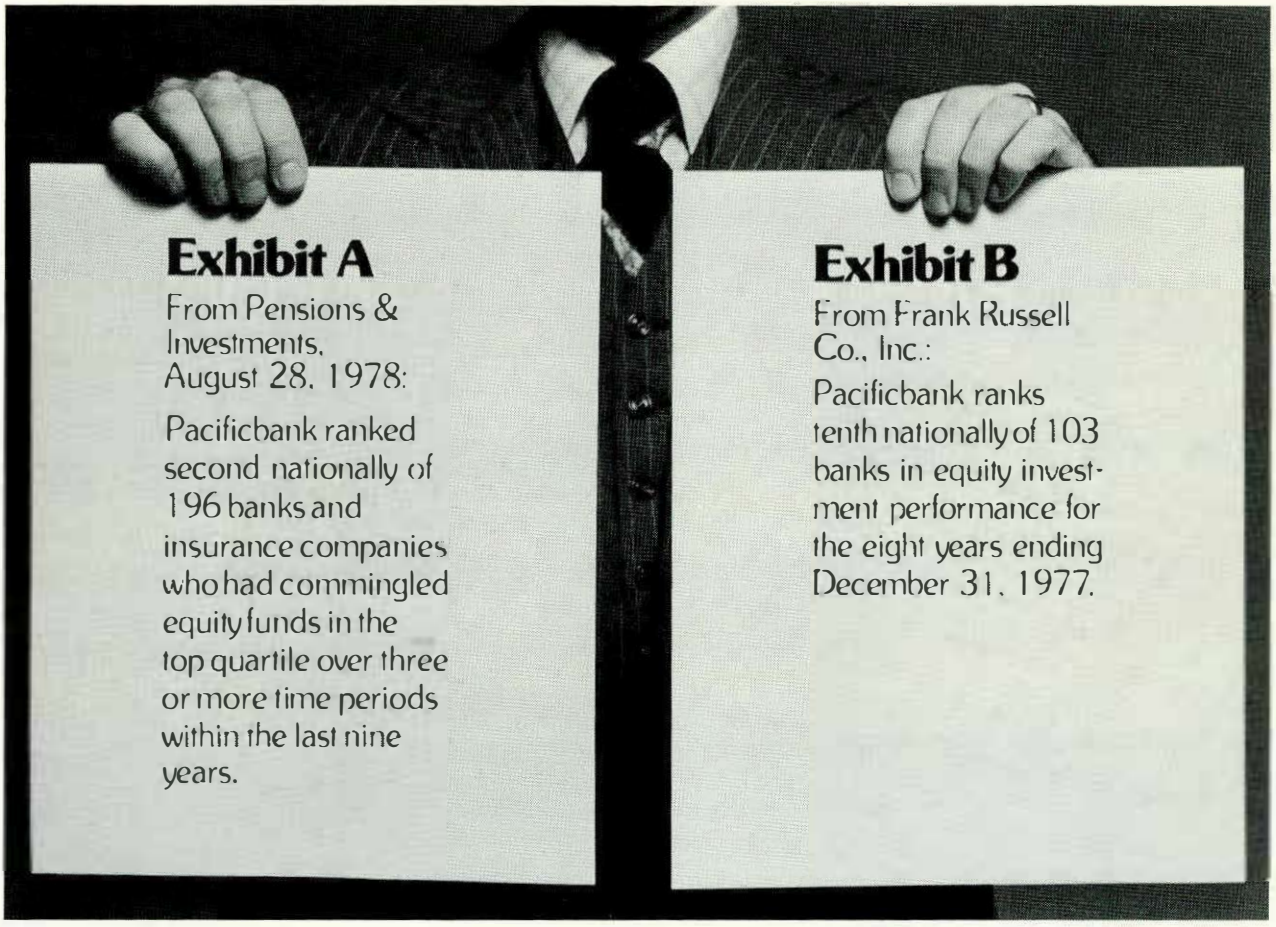

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Volume 32, Number 12
December, 1978

WASHINGTON STATE BAR NEWS

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Jay V. White, *Editor*

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FEATURES

IN THE NEWS

DEPARTMENTS

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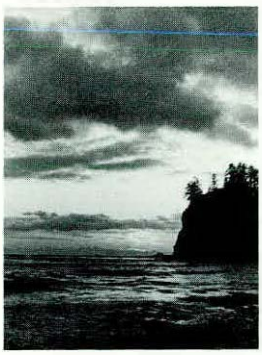

A winter sunset can mark the end of a day or serve to remind us that the end of the year is approaching, attended by the promise of new beginnings in January. The cover photograph by Wendy Kelley Borton was taken from the beach at La Push.

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Judge Favors Compulsory Arbitration

It was disappointing to me to learn of the position of the Board of Governors not to approve the recent Court Congestion Committee recommendation relating to compulsory arbitration. [See President's Corner, *Bar News,* 32:11:9]

Experience from other jurisdictions has clearly established the benefits to court, lawyer and litigant of compulsory arbitration. That conclusion was reached by the bar association's committee, by the Seattle-King County Bar Association's Committee, and by the Superior Court Judges' Association Committee which studied the problems of congestion.

I have studied the systems in operation in visits to Ohio, Pennsylvania and California, and have discussed it with judges and lawyers from other areas as well. Adoption of such a plan in the state of Washington would, in my opinion, have a significant impact upon elimination of court congestion and delay, while providing for the fair, and inexpensive, resolution of many disputes.

I hope the Board of Governors will reconsider its position on this most meaningful suggestion, and will join with the many other groups and individuals who will seek to insure passage of this bill in the next session of the legislature.

DAVID W. SOUKUP
Judge
King County Superior Court
Seattle

The Board has voted to change its position. See The Board's Work, p.21.—Ed.

"Developmentally Disabled" Need Legal Services

Editor:

This letter refers to the article in the August issue [*Bar News* 32:8:20] by Judy Young and Karen Thompson, describing the establishment of a new program by the Seattle-King County Bar, "Legal Advocates for the Disabled" (LAD). On behalf of the King County Board for Developmental Disabilities, let us express our sincere gratification with this program and the interest which has gone into bringing it about.

Your readers may not be aware that the King County Board for Developmental Disabilities is a statutory board which administers funding of community programs for the citizens of the county who are mentally retarded, cerebral palsied, autistic, deaf or blind. The Board also serves as advocate for their unmet service needs, and helps to coordinate existing services. In this role, the Board has long recognized the need for sensitive, effective, legal assistance for these people. There are several areas of special legal concern for the retarded and the handicapped in their encounter with contemporary urban society. Among these are guardianships, trust and probate, informed consent for medical services, problems of the naive offender with the criminal justice system and estate planning. Attention is also needed to secure the rights of developmentally disabled per-

sons to an appropriate range of educational and residential alternatives, and the opportunity to contribute to society through work opportunities, each according to his own ability.

The first Developmental Disabilities Board allocation of $5,000 for legal services was made in 1972. This sum has been gradually increased in 1978. The amount was $14,000 to provide for legal representation of developmentally disabled persons by Catherine Morrow and Bill Dussault — who are two of the four lawyers now associated with the LAD project. Although this funding was not adequate to meet the need, at least it has been the beginning of a service program.

Because of its earlier interest, the King County Board for Developmental Disabilities was more than happy to authorize the use of its 1978 allocation for legal services as part of the local match for the grant from the American Bar Association's Commission on the Mentally Retarded.

At the beginning of our legal services program, the Board for Developmental Disabilities contracted with the King County Association for Retarded Citizens for administration and help in case finding. These functions coordinate well with their information and referral service for the developmentally disabled and their families. King County Association for Retarded Citizens will continue as administrator of the LAD program.

Finally, the King County Board for Developmental Disabilities congratulates the Seattle-King County Bar on the American Bar Association's grant, and commends them for their interest in helping to solve some ongoing problems which very much need resolution.

MRS. KATHARYN S. WRIGHT
Advisory Board Member,
Legal Advocates
for the Disabled

HEINZ LEISTNER
Chairman
King County Board for
Developmental Disabilities
Seattle

Two More Views on Homestead Awards

Editor:

I have read with interest the probate articles in the August and October, 1978 issues ["Alternative Methods of Settling Estates" by Faith Enyeart, *Bar News* 32:8:10; Letters, *Bar News* 32:10:8] and I have been particularly interested in the question raised as to whether or not an award in lieu of homestead should come from the whole of community property or from only the deceased's half.

At least three times over the years I have spent quite a few hours in trying to find a positive answer to this question. I do not think one exists. Each time I have concluded in my own mind that the Supreme Court would probably hold that the award comes out of the entire community property, including the surviving spouse's half. But whether that is what the legislature intended nobody knows.

I do not think this is a question that can be settled by the lawyers. It should be settled by the legislature. I suggest that the Bar arrange for the drafting and presen-

tation to the next legislature of a statute which will settle the question one way or the other, or which offers the two alternatives to the legislature for its choice.

BURTON A. KINGSBURY
Bellingham

Editor:

May I join the crowd?

Whether the homestead awards of RCW ch. 11.52 (and of RCW ch. 6.12, for that matter) apply the dollar limit to the whole of the community property has always seemed clear to me, *i.e.*, the limit applies to the whole.

A few years ago I tried by resort to authority to confirm what I had previously understood to be the law on the point and what was surely the law as practiced. The result of my study I included in an article from which I quote the following:

> The gross dollar limit on the award, presently $15,000, could of course refer to the whole of the community property or to only the decedent's half. The statute, viewed without the gloss of its history is, however, not very helpful on the point, for it provides merely that the court shall award "property of the estate, either community or separate, not exceeding the value of fifteen thousand dollars . . ." But the law on the point is clear: the dollar limitation applies to the whole of the community property. Deriving from a legislative preoccupation with the "home property," as distinguished from a concern for dollar amount, this result is demonstrable both in the evolution of the homestead statutes and in long-continued practice and court recognition. On the other hand, decisional law on the point is nearly non-existent, probably reflecting that no lawyer ever thought otherwise. Only when the reference to "home property" disappeared altogether in the legislation of 1965 and as the actual use of the homestead changed from creditor immunization to the diversion of the property from the ordinary course of devolution would it occur to anyone that the dollar limit might be applied only to the decedent's half of the community property. But given the prior history, the change, if it is to be made, must come from the legislature, not from the court.
> [*Detailed footnotes deleted. —Ed.*]
> (Adapting the Uniform Probate Code to Washington Marital Property," 7 *Gon. L. Rev.* 261, 279-80 (1972)).

I believe that three factors described in that excerpt lend strength to the conclusion. The first is the legislative history showing that the award evolved from a set-over of the actual residence (not just half the residence). The second is the recognition given by the court in the cases cited [In re Estate of Williams, 31 Wn.2d 303, 196 P.2d 340 (1948); *see also, e.g., Cody v. Herberger,* 60 Wn.2d 48, 371 P2d 626 (1962)] The third is what I believe to have been the nearly universal and previously unquestioned interpretation put on the statutes by the superior courts and by the lawyers appearing before them. For the Washington Supreme Court to fly in the face

of these at this late date would be unexpected to say the least.

We must not forget in these affluent times that the homestead laws have on occasion previously served (and may yet again serve) to immunize property from the reach of creditors, not, as the more frequent use today, to divert property from the course of testate or intestate devolution. And if creditor immunization is the objective surely the whole of the community property should be given that protection, not just the decedent's half.

As I suggested elsewhere in the cited article, I believe the better scheme would allow the surviving spouse to choose whether to apply the limit to the whole or to the half, depending on whether protection from creditors or diversion from devolution is the objective. See 7 *Gon. L. Rev.* 261, 286 (1972).

ROBERT L. FLETCHER
Professor of Law
University of Washington
Seattle

Lawyer Supports Program for Trust Account Income

Editor:

Let me add support, Mr. White, to your September, 1978 editorial [Editor's Page, *Bar News* 32:9:8].

It repeats a recommendation I made to the Board of Governors in 1973, after learning of the potential at meetings I had attended that year of the Canadian Bar Association.

I couldn't get the Board's ear

— hopefully you can.

LIONEL E. WOLFF
Spokane

The editorial described a program implemented in Florida under which, with the permission of the attorneys' clients involved, trust account funds are placed in interest-bearing accounts and the income generated is used for public purposes approved by the Florida Supreme Court. In August, the Board of Governors voted (5-3) not to pursue the possibility of implementing a similar plan in this state.—Ed.

Board Member "Votes" $240 For Public Interest Fund

Editor:

I have sent to the bar office my check payable to the Public Interest Fund in the sum of $240.

Apparently, there were five votes on the Board of Governors in favor of the recent appropriation of $1,200 from that fund to the University of Washington Law School for "specially admitted" students' pre-law program.

I voted in favor of this proposal because I was under the impression those who initially sponsored the public interest fund idea were not adverse to the money being used for such a Law School purpose. I have still not heard that the initial sponsors of this type of fund are adverse to the Board's action.

Nevertheless, since the question has arisen in view of the editorial in the August issue [Editors Page, *Bar News* 32:8:9], I think it only appropriate for we Board members to rectify the situation.

PAUL R. CRESSMAN, SR.
Member, Board of Governors
King County
Seattle

Vote now, pay later?—Ed.

Bench and Bar Love "Conventional Wisdom"

Editor:

In the past I have written to commend you for the excellence of the *Bar News* during your regnum. I have just read your editorial in the October issue and am even more delighted. Historians, some of whom are living, tell me that we haven't had an editor with such a well-tuned sense of humor since John Rupp held the job. A fair amount of time has elapsed between.

Congratulations also for the cartoon on the cover, suggesting that a bearded person has become president of the Association!

Onwards and upwards!

ROBERT W. WINSOR
Judge
King County
Superior Court
Seattle

"Regnum"? Did you mean "rectum"?—Ed.

Editor:

Thanks for your good, conventional report on what I missed. Almost made me cry to think about it...

Anyway, you are doing a good job. Keep it up!

JACK E. HEPFER
Seattle

To cry, you had to be there.—Ed.

Editor's Page

Son of McLauchlan

As part of our continuing effort to produce something reminiscent of a magazine despite the space limitations imposed by our budget, I am presenting on a single page 4,000 words: four pictures. I had to add the type you are reading because any picture I take is worth slightly less than 1,000 words. The first picture is entitled, "Aloha Hawaii".

Aloha Hawaii

This is a *Bar News* scoop: an actual unretouched photograph of a winner in the act of winning. What you see is William M. Crawford of Grandview just as he has cast into the silver bowl the ticket which won him a trip to Hawaii, the grand door prize of the annual bar convention. If you aspire to this achievement, study this picture. Note Crawford's technique. Feet firmly planted. Nonrestrictive attire. Right arm and fingers extended. A slight twist of the wrist. Left hand grasping the wallet containing his last American Express traveler's check. A study in concentration.

The second picture is called, "Sign of the Times":

Sign of the Times

Next we have, "Point/Counterpoint", James J. Kilpatrick and Shana Alexander, better known to us as Willard Walker and Betty Fletcher, in a moment of rare compromise:

Point/Counterpoint

The Spokane convention marked the end of the terms of Fletcher and Walker as members of the

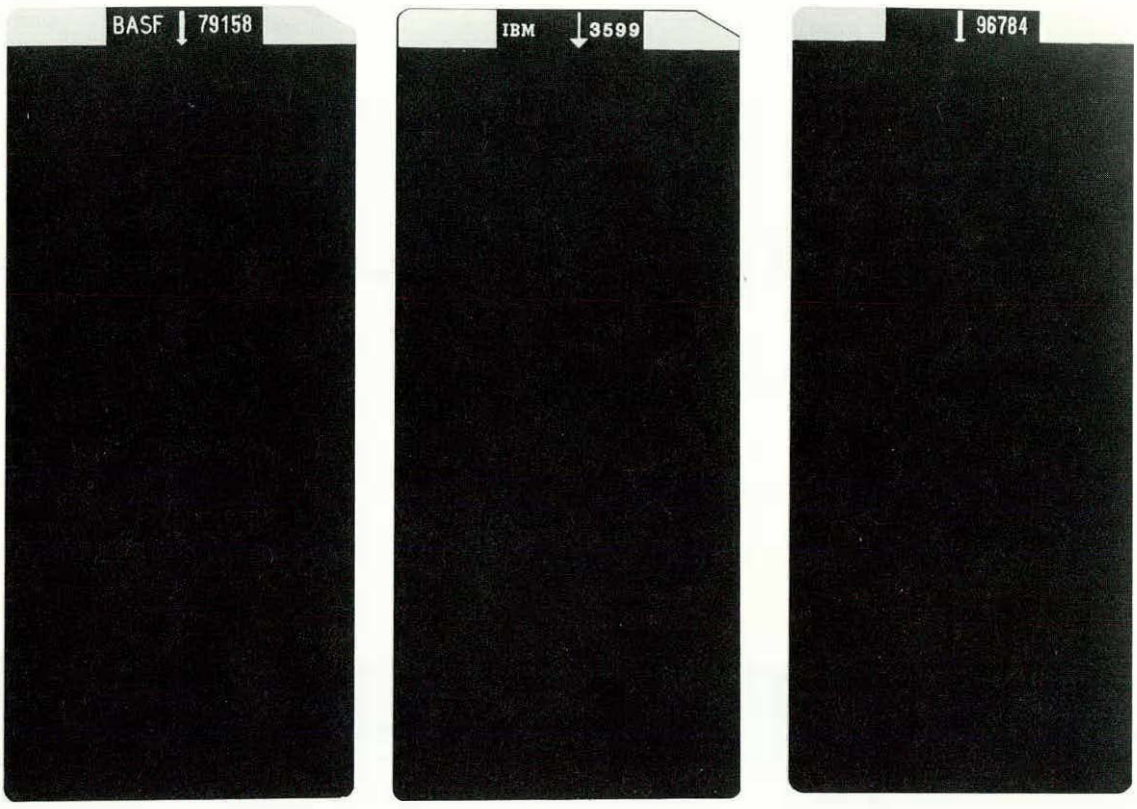
Board of Governors. If you don't know what this is all about, you are not one of the 11 people who regularly read "The Board's Work".

The fourth picture is "McLauchlan at Large":

McLauchlan at Large

For those of you who are joining us late, John D. McLauchlan is a Seattle lawyer who has taken pictures for the *Bar News* during the past 87 years. He travels. He accepts large probates. He reads *Ashford v. Reese*. Does anyone know what this column is about? Some of his impressions of the Spokane Convention appear in this issue at pp. 27-30. A few more pictures of mine are included in the hope that you will blame them on McLauchlan.

JVW



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Judicial Salaries

The cornerstone of the legal profession in this country is a strong and independent judiciary. In order to attract persons to give our judiciary the stature our citizens deserve, compensation levels must be structured not only so as to attract and maintain men and women of unquestioned integrity, but also persons who by their training and experience have previously demonstrated a capacity to rise considerably above the level of average or normal accomplishment and stature in their chosen field.

Most lawyers and laymen would agree without question that we must attract highly competent people to the judiciary, yet, salary levels in the state of Washington have consistently undervalued the worth of our judiciary.

Currently, in the state of Washington, the following salary levels are in effect:

Supreme Court Justices	$45,000.00
Appellate Court of Appeals Judges	$42,000.00
Superior Court Judges	$39,000.00
Full Time District Court Judges	$33,000.00

On the Federal level, District Court Judges at the present time earn $54,500.00 per year and Court of Appeals Judges earn $57,500.00 per year.

On October 27, 1978, the State Committee on salaries made the following recommendations for an increase to be acted upon by the next legislative session and effective in July of 1979:

Supreme Court Justices	$50,000.00
Appellate Court of Appeals Judges	$47,000.00
Superior Court Judges	$44,000.00
Full Time District Court Judges	$38,000.00

This is less than the proposal by the Judicial Environmental Committee which was supported by the Board of Governors of the Washington State Bar Association which would have recommended a Supreme Court Justice salary equal with the Federal District Court Judge at $54,500.00 per year with $3,000 incremental separations between all levels of Courts in this state.

All of our state Judges, from the State Supreme Court to the District Court Judges, must stand for election periodically with all of the expenses and uncertainties of employment attendant thereto. At the present time some large law firms in Seattle are starting Associates fresh out of Law School at salaries in excess of $21,000.00 and it is not uncommon for Senior experienced lawyers in this state to earn compensation in excess of $100,000.00 per annum.

It is often pointed out that compensation should not be the sole criteria for an attorney aspiring to the bench, but that dedication and public service should be his or her primary objectives. Those sentiments are laudable and of course true since we do in fact have an extremely competent and dedicated judiciary in the state of Washington, however, how realistic is it to expect that successful lawyers will be willing to substantially reduce their incomes to accept positions which could very well be temporary until the next election.

The judiciary in this state has always been the step-child for our tripartite system of government and the state expenditures for judges are miniscule in comparison to the expenditures for the executive and legislative portions of the government.

Judges are somewhat handicapped in campaigning for higher salaries since neither the public, the press nor the legal profession regards this as proper and in keeping with the dignity of the office. Accordingly, if anyone is to fight the battle for appropriate judicial salaries in this state which will attract the type of people to the bench the public deserves, it must be the Bar.

The proposals of the State Committee on salaries fall far short of providing adequate compensation for our Judges, yet even those proposals may fall on deaf ears without your support. I urge all of you to contact your local legislators and to urge citizen groups and influential laymen to do the same in order to continue to attract a high caliber judicial cadre in this state.

PLEA BARGAINING: ON TAMING THE DRAGON

By **Christopher T. Bayley**

Damned by many. Defended by some. Plea bargaining — the practice of offering concessions to defendants in return for the entry of guilty pleas — seems destined to exist in a world of dispute and debate. Hailed by the Chief Justice of the United States as both "essential" and "highly desirable", it is seen by many citizens as a process by which justice is reduced to a series of deals reached in smoke-filled rooms.

The dispute has accelerated since the early 1970's when plea bargaining came out of the closet. Now, in this state and in most other states, every plea bargain is made on the public record with none of the secrecy or hypocrisy of the old system where everyone denied the existence of plea bargaining in the courtroom but practiced it behind closed doors. This needed reform has led a variety of individuals and groups to study the dynamics of plea bargaining. As researchers and citizens alike understand plea bargaining as it has traditionally been practiced the proposals for even more fundamental reform have mounted. Likewise, the professionals — judges, prosecutors and defense attorneys — freed of the need to deny the existence of plea bargaining, have begun to analyze the practices of the past, to question old assumptions and to formulate new ideas for reform.

Christopher T. Bayley has been King County Prosecuting Attorney since 1971. He will enter private practice at the conclusion of his present term of office in January. In this article, he discusses the nature and results of plea bargaining policies developed in King County during his tenure as Prosecutor.

Plea Bargaining Philosophy

Our office has been a part of this renaissance. Beginning in 1974 we undertook an exhaustive internal analysis of the role the prosecutor was playing in our criminal justice system and the way in which plea bargaining affected that role. We found that plea bargaining had come to be justified on two bases; first, that it was necessary to individualize dispositions, to bring equity to rigid statutes and to temper justice with mercy; and second, on more pragmatic grounds, that it was essential to dispose of cases without trial to prevent the courts from becoming totally overloaded.

The first justification pointed to the intertwined nature and the highly individualized philosophy of sentencing which had come to dominate criminal justice thinking. We, and most other prosecutors, had used our role in plea bargaining to further the process of tailoring individual sentences to the rehabilitative needs of each defendant, as opposed to seeking punishment proportionate to the culpability of each defendant. We believed that this policy was both effective and humane; that the system could both fairly

individualize sentences while coercing rehabilitation.

Our analysis, however, convinced us that we were wrong. The "individual treatment model," we concluded, was failing in its promise of rehabilitation and was a major contributor to the problems of disparity and injustice which had come to characterize our sentencing system. The fundamental precept of that philosophy is that people who have committed equally harmful acts should not be dealt with equally but according to their individual needs — in other words, sentenced not for what they have done but for who

"By plea bargaining on the basis of individual characteristics of defendents, we actually were contributing to the unfairness and ineffectiveness of the system. Once we came to this conclusion, reform was imperative."

they are. We concluded that the fundamental injustice of that philosophy could not be denied even if it were proving effective; furthermore, there was no evidence of this effectiveness. By plea bargaining on the basis of the individual characteristics of defendants, we were contributing actually to the unfairness and ineffectiveness of the system. Once we came to this conclusion, reform was imperative.

Changing Procedures

We determined to end plea bargaining as we had practiced it. But implementing that determination was no small task. Regardless of our philosophical views, the pragmatic necessities for plea bargaining remained. In 1974, only 12% of the felony cases filed in King County Superior Court were disposed of by trial. To increase that percentage to only 25% would result in a doubling of trials in Superior Court. It would have been irresponsible in the extreme to have precipitiously adopted policies which forced more cases to trial than our criminal justice system could handle. Plea bargaining had evolved over a long period of time and its reform would require both tenacity and patience.

Our first step was to establish priorities. This meant breaking with the past, where priorities had evolved on an ad hoc basis, responding more to the pressures of the moment than to any rational assessment of public interest. In making this break we recognized that, although we certainly could not afford to try all cases filed, we could decide in a systematic way which crimes deserved our fullest efforts, limiting our discretion in negotiating and granting concessions in those cases, and concentrating our trial manpower there if more trials resulted.

In determining which crimes should receive our highest priority, we rejected the traditional emphasis on the sophistication of defendants and focused instead on the impact of the crime, both on the victim and on society. This led us, for example, to give higher priority to residential than commercial burglaries because the fear produced by breaching the sanctity of one's home is much more debilitating to society than the essentially economic loss suffered in a commercial burglary.

We began cautiously. Initially we designated only three "high impact" crimes — rape, robbery and residential burglary. For these crimes we first developed case filing standards: (1) all provable

multiple counts would be filed; (2) any weapons allegations would be filed; and (3) when applicable, habitual criminal status would be charged in these cases.

To offset the anticipated increase in trials for the high impact crimes, we designated certain less serious crimes as "expedited" or low priority crimes. These included thefts of less than $250, joyriding, and possession of small specified quantities of dangerous drugs. These cases were to be filed in District Court as felonies but reduced to gross misdemeanors on a plea of guilty. Our rationale was that for these crimes maximum sentences of six months in jail were sufficient and therefore they could be disposed of within the jurisdictional limits of the District Court. Thus we could prevent those cases from reaching the Superior Court where our high impact crime policies would unquestionably create a greater work load. To insure that these crucial initial filing decisions were made as accurately as possible, we created a filing unit staffed with experienced deputies who were responsible for all initial charging decisions.

Sentencing Standards

The task of establishing standards for sentence recommendations was considerably more difficult. Our examination of the problems of individualized justice has convinced us that sentences — including our recommendations — should reflect the seriousness of the crime and the criminal record and not the perceived needs or character of the individual defendant. Thus, we developed for each of these crimes a scale of

"We did not consider the treatment needs of the defendant and we made no attempt to predict future dangerousness on grounds other than prior record. We believe the first is improper and the second impossible."

standard sentence recommendations which would vary only in accordance with specified aggravating or mitigating factors relating to the crime committed and the seriousness of the defendant's criminal record.

We did not consider the treatment needs of the defendant and we made no attempt to predict future dangerousness on grounds other than prior record. We believe the first is improper and the second impossible. We made these standard recommendations public and available to anyone who was interested. No longer were prosecutorial policies known only to insiders. Thus anyone, from the most experienced criminal defense lawyer to the victim of a crime, could understand our position. Our standard recommendations called for some loss of liberty in every "high impact" case (at least thirty days). The term "loss of liberty" was used advisedly. We intended this concept to be broader than the traditional jail or prison alternative. Work-release programs, halfway houses and residential programs of many types fit our concept of loss of liberty for periods of one year or less. We believe that punishment in a free society comes from depriving a person of his freedom for a significant portion of each day, and not from the conditions of that confinement.

Impact of Standards

We recognized from the beginning that we could not anticipate every situation and that flexibility to meet unanticipated situations was necessary. We designed an exception policy which allowed variations from the structures of the standards, but only upon written justifications approved by supervisors. Thus we could maintain necessary flexibility without abandoning our standards to case-by-case modification.

These standards went into effect in mid-September, 1975. We created an elaborate evaluation system under the direction of a Ph.D. candidate from the University of Washington. We carefully compared the results before and after. The changes were dramatic yet within the capacity of the system to absorb. Our charging became more precise. For example in 1974 we had filed firearm allegations in 64.5% of the cases where such an allegation was possible. By 1976 that had increased to 100%.

These gains were not without costs. With fewer concessions being offered, there were fewer pleas of guilty and more trials. But, interestingly, the changes were not as great as had been anticipated. After an initial 55% increase in trials immediately after the standards were implemented, this dramatic shift moderated and, by the end of 1976, the percentage of trials had increased only 21% over the period before the standards. The percentage of cases disposed of by guilty pleas declined from 74% before the standards to 71% in 1976.

A greater impact upon our workload, however, was a major change in the stage in the process at which guilty pleas were entered. With less reason to enter a plea early, the average number of days between filing and guilty plea increased dramatically from 37 days (before the standards) to 52 days (immediately after standards went into effect). This had the effect of increasing pre-trial workload significantly. For example, the number of pre-trial hearings per month increased from 70 in March, 1974, to 164 in March, 1977 — an increase of 138%.

This increase in workload, however, was balanced by use of the expedited crime category described above. Pleas of guilty in District Court increased by 25% to a total of 83% of all expedited cases. This enabled us to keep the increase in Superior Court filings in 1976 to only 1.5% greater than in 1975. Contrast this with 1974, the last full

year before the standards, where there was a 23% increase over the preceding years. Thus, our original expectation of balancing an increase in workload on the high impact cases with a decrease in time required for the less serious expedited cases was borne out.

The real test, however, was the impact of the changes in our policy on the ultimate disposition of the cases. The percentage of high impact cases which resulted in convictions as charged or higher, as opposed to reductions to lesser or fewer offenses, increased by 94%. Reductions in charges in return for guilty pleas were cut in half and the practice of dropping counts decreased by 36%. Sentences imposed changed dramatically. After the first six months under the standards, prison sentences for high impact crimes had increased by 57%. The effect on sentences was not limited to just the high impact cases, but also was noticeable in all cases. The percentage of felony cases in which jail or prison sentences as opposed to straight probation was imposed increased from 38% in 1974 to 52% in 1976.

We concluded that our efforts were bearing fruit and that we were on the right track. The discretion we exercised could be controlled and structured so that it would serve rational principles and priorities. Plea bargaining need not continue on an ad hoc basis.

Expanding Written Policies

Fortified by these results, we began to expand and refine our written policies. We added detailed standards for murder, manslaughter, negligent homicide, assault and escape, and expanded the rape and residential burglary categories to apply to all sexual offenses and all burglaries. To balance this increase in the high impact categories, we also expanded the expedited crime category to again keep the workload increase in Superior Court within manageable limits. We refined our filing policies to describe explicitly what factors we would consider in making the initial charging decision and, as important, what factors we would not consider. And we implemented our career criminal program designed to bring the full force of aggressive prosecution to bear on those relative few who

repeatedly commit serious crimes.

This series of changes went into effect in mid-1977 and the result followed the pattern we had experienced earlier. The percentage of cases going to trial continued to increase and reached 18% during the first half of 1978. The percentage of cases ending in guilty pleas continued to decline, reaching 69% in 1978.

Results "Justify Effort"

The resulting increase in workload was balanced by the expedited crime policy. In 1977, we were able actually to reduce the number of felony cases reaching Superior Court by 3% over the preceding year and this trend is continuing in 1978.

Quality of results has continued to improve. Contrary to some predictions, our conviction rate at trial has not only not suffered as the number of trials has increased, but also it actually has increased slightly. The quality of sentences has continued to steadily improve. The percentage of cases where the sentences imposed included some loss of liberty increased to 58% in 1977 and 67% in the first half of 1978.

The exception policy has given us the flexibility necessary to deal with the unique circumstances of individual cases while at the same time not abandoning the principle of equal treatment of equal cases. We have found that we have granted exceptions in about 15% of the cases covered by the standards. We periodically review the reasons for the exceptions and we have found that, with very few exceptions, the reasons given remain valid over time.

"By making our policies open and known to all, we insure that the public's business is done in public. No longer need the public fear what is taking place behind closed doors."

There are other benefits which are not reflected in statistics. By making our policies open and known to all, we insure that the public's business is done in public. No longer need the public fear what is taking place behind closed doors. We have substantially reduced the disparity which previously existed and defendants are dealt with based upon what they have done and not on who they are. We now speak with one voice to all.

Perhaps most encouragingly, we can attest to the accuracy of the point made by Judge Carl McGowan of the Court of Appeals for the District of Columbia: "There is something about the very process of having to write down on paper detailed guidelines for one's conduct which summons rationality and elevates principle." This very process has improved the quality of the decisions we make and I commend it to all public officials who must exercise discretion in the course of their duties.

I believe we have demonstrated that plea bargaining in the traditional sense can be ended and replaced with a system of open written policies governing the way in which cases will be handled. The discretion necessary to deal with individual circumstances can be structured and controlled and made to serve rational principles and priorities. The process is not easy but the results justify the effort. The dragon can be tamed. □

The Courts

SUPERIOR COURT NEWS

By **JUDGE JAMES A. NOE**

JUDGES GO TO COLLEGE

A number of Washington State Judges have recently attended a variety of courses offered at the National College of the State Judiciary at Reno. Judges **Carl Loy** (Yakima), **W. R. Cole** (Kittitas), and **Jay Hamilton** (Kitsap) took a one-week course entitled "Judge and the Trial". Judge **Frank Baker** (Thurston-Mason) and Judge **Ted Kolbaba** (Klickitat-Skamania) attended the one-week course on "New Trends in the Law". A one-week course on "Criminal Evidence" was monitored by Judges **William Grant** (Spokane) and **Gerald Chamberlin** (Clallam-Jefferson). A number of judges took the general course for trial judges which is three to four weeks in length, depending on the session attended. Those judges attending the general session in July or September were Judges **Dale Nordquist** (Lewis), **Richard Pitt** (Island), **John Wilson** (Snohomish), **Barbara Rothstein** (King), **Richard Guy** (Spokane), **Gerard Shellan** (King), Commissioner **Richard Ishikawa** (King).

STATE PRESIDENT ATTENDS REGIONAL CONFERENCE

President-Judge **Robert Bryan** (Kitsap) attended the Western Regional Conference of the National Center for State Courts. Judge Bryan represented the State Superior Court Judges at the four-day conference in San Francisco the last week in October.

BOARD OF TRUSTEES MEETS

The Washington State Superior Court Judges' Association Board of Trustees met in Seattle, October 7. Judge **Warren Chan** (King) presented an interim report from the Advisory Committee on Sentencing Guidelines, an on-going program of the State Judge's Association. In addition to internal business matters, the Board agreed to meet with the Board of Governors of the Washington State Bar Association in Seattle on December 9, 1978. □

Board Reverses Position

"Local Option" Compulsory Arbitration Narrowly Approved

By **Jay V. White**

JANTZEN BEACH, ORE., November 10 —The sands (and votes) have shifted between Ocean Shores and Jantzen Beach, causing the Board of Governors to give narrow approval (5-4) to the principle of compulsory arbitration, on a "local option" basis, as a means to resolve civil suits for monetary damages in amounts of $10,000 or less.

At its June meeting in Ocean Shores, the Board voted 5-3 to reject a similar proposal by the Committee on Court Congestion and Delay, chaired by Board Member Bradley T. Jones. At that time, the Board also disapproved the Committee's proposals for expanded use of court commissioners and malpractice immunity for counsel representing indigents in criminal cases, but endorsed nine other proposals designed to alleviate court congestion. (See Editor's Page, *Bar News*, 32:7:11; President's Corner, *Bar News*, 32:11:9.)

But at this meeting at Jantzen Beach the Board changed its mind, not only regarding compulsory arbitration, but also as to the role of court commissioners.

The shift may be attributable to the changes in the membership on the Board since June. In September, Board Members Betty B. Fletcher, Robert H. Peterson and Willard Walker completed their terms, replaced by William Wesselhoeft, Quinby Bingham and Edward Holm, respectively.

In addition, James Danielson since has been appointed to replace Charles W. Cone who assumed the Chelan County Superior Court bench on July 1; however, Cone in June and Danielson in November both opposed compulsory arbitration. Also, Bingham voted "no," consistent with his predecessor, Peterson.

Schedule conflicts prevented Board Member David Welts from voting on the issue on both occasions.

Board Member Michael J. Hemovich changed his vote since June, but remained on the losing side. Hemovich, who served on the court congestion committee, supported the arbitration proposal in June but opposed it in November.

In June, the vote looked like this: *In favor of arbitration:* Halverson, Hemovich, Jones. *Opposed:* Cressman, Cone, Fletcher, Peterson, Walker. *Absent:* Welts.

This time it went this way: *In favor of arbitration:* Halverson, Holm, Jones, Wesselhoeft. *Opposed:* Bingham, Cressman, Danielson, Hemovich. *Absent:* Welts.

President Hoff, favoring the arbitration proposal, broke the tie to create the 5-4 endorsement.

The arbitration plan before the Board was presented by M. Wayne Blair as proposed legislation endorsed by the Seattle-King County Bar Association's Board of Trustees. The Seattle-King County proposal also has been approved in principle by both the Superior Court Judges Association's Improvement of Justice Committee and the Washington State Trial Lawyers Association.

Proponents of the plan cite favorable experience with compulsory arbitration in California, New York, Ohio, and Pennsylvania. Opponents say "judging should be left to judges."

In broad outline, the proposed legislation makes mandatory arbitration available on a "local option" basis (by majority vote of a county's Superior Court judges). All civil actions, except appeals from municipal or justice courts, would be subject to arbitration where the sole relief

sought is money damages of $10,000 or less, but the right to trial by jury would be preserved. Supreme Court rules would implement the details of the plan. Any party dissatisfied with an arbitrator's decision could request *de novo* review in Superior Court, but the proposal also provides that the Supreme Court rules could authorize assessment of costs and reasonable attorneys fee against any party who failed to improve his position on trial *de novo*.

Court Commissioners

In related action, the Board voted to approve pursuit of the recommendations of the Committee on Court Congestion and Delay relating to "Expanded Use of Court Commissioners":

"The committee was in agreement that Article 4, Section 20 of the Washington Constitution should be amended in two respects: first, to eliminate the limitation of three court commissioners in each judicial district, and second, to clarify the authority of court commissioners. The present limitation allows them to hear only what a judge can hear "at chambers." There are conflicting interpretations of the meaning of that phrase.

"The committee agreed that all domestic relations matters, juvenile matters, probate, guardianship and mental illness matters should, or could, be heard by court commissioners, if the commissioners are legally trained. Many of these matters are uncontested; all ex parte matters should be heard by commissioners. If there is a contested matter in these areas, counsel should be requested to stipulate that the court commissioner try the matter as a judge pro tem. (Unless so agreed, the matter should be referred for judicial attention so as to avoid the situation of commissioner consideration with de novo hearing at Superior Court). Appeal would then be directly to the appellate courts, rather than a review by the Superior Court and then appeal to the appellate courts.

"The committee feels that all court commissioners must be legally trained. The same would apply to District Court Commissioners, particularly in view of the increased civil jurisdiction. Issues of serious legal and constitutional magnitude may appear in any of these matters and there would be a serious lack of justice if they are not recognized and understood by the court commissioners."

The Board's action also constituted a reversal of the Board's position in June. At that time, only Cressman, Halverson and Jones voted to follow-up on the Committee's recommendations. *Opposed:* Cone, Fletcher, Peterson, Walker. *Abstain:* Hemovich. *Absent:* Welts.

At this meeting, the Board split 6-2 in favor of the Committee, with President Hoff joining the majority (Cressman, Halverson, Jones, Hemovich, Wesselhoeft). *Opposed:* Danielson, Holm. *Not voting:* Bingham. *Absent:* Welts.

OTHER BOARD ACTIONS...

■ **GONZAGA LAW SCHOOL**—Theodore J. Clements, the new Dean of Gonzaga Law School (effective September 1), met with the Board to describe programs underway at the 874-student law school, including its CLE program. He expressed the hope that over time the enrollment of the law school could be reduced to permit a reduction in class sizes and a more favorable faculty-student ratio than now exists. He described a diverse student body from 40 states and several foreign countries. Using statistics based upon the experience with the 1977 graduating class, he stated that 94% of them were placed in jobs within 6 months of graduation, but observed it has not been determined whether those placed were in jobs they wanted. About one-third of the class obtained jobs in this state.

He described as "baffling" the fact that an overall percentage of just 50% of Gonzaga's recent applicants to the bar passed the July bar examination, even though they had been beneficiaries of an improved curriculum and higher admissions standards. He noted that the passing rate of Gonzaga graduates had been increasing until the recent exam, and that their success had been much better in out-of-state bar exams (70% to 80% passing).

Clements inquired whether representatives of the Board of Bar Examiners and members of the bar staff involved in the exam's administration could come to the law school and describe exam procedures and the kind of performance expected. The Board indicated that this could be done, not only at Gonzaga but also at the state's other two law schools. The Board also indicated that recurrent consideration is given to the possibility of holding the bar exam simultaneously in Spokane and Seattle to make the location of the exam more convenient for Gonzaga graduates and others who would prefer an alternative to the Seattle site.

■ **PROFESSIONAL LIABILITY INSURANCE**—The Board met with Lester L. Rawls, Administrator, and Paul J. O'Hollaren, Chairman, of the Oregon State Bar's Professional Liability Fund, who described that bar association's self-insurance plan which has been in effect since July 1. The insurance program is mandatory and is supported by annual assessments authorized by the Oregon bar association's Board of Governors. The assessment for 1979 is $500 for no-deductible, $100,000/$200,000 malpractice insurance, with SEC coverage available for an additional "premium" charge. The program is accompanied by a bar-sponsored "loss prevention" program.

Subsequently, Board Member Halverson, seconded by Bingham, moved that this bar association should prepare "stand-by" legislation to permit it to implement a self-insurance plan should the Board deem it necessary. Cressman, who is chairman of the Attorneys Professional Insurance Committee, stated that the Committee shortly could present its recommendations in this area to the Board. After further discussion, the matter was tabled (Cressman, Halverson opposed; Welts absent.)

■ **ETHICS OPINIONS**—The Board approved two formal opinions of the Code of Professional Responsibility Committee, the full text of which will be published in a future issue of the Bar News. One holds that it is unethical for an attorney to represent a person on a contingent fee

basis in a petition to increase a maintenance payment in connection with a dissolution proceeding. The other concludes that it is unethical, when a personal injury claimant effects recovery for his injury which includes medical expenses upon which the claimant's own insurance carrier has a subrogation claim, for the claimant's attorney to assert a right to deduct pro rata attorneys fees from the subrogated amount where the subrogation insurance carrier has not retained the attorney to handle the subrogation (withdrawing Formal Opinion No. 82, December, 1960).

■ **TEL-LAW**—The Board agreed to appoint a task force to study the possible implementation of the Tel-Law project on a statewide basis. (Tel-Law is a program begun in Pierce County in July, 1977, under which tape recordings providing information about legal rights are made available to the public by telephone.) The Board deferred action on a budget request presented by F. Douglas Tuffley of the Spokane County Young Lawyers Section to support a Tel-Law project in that county.

■ **BAR MAILING LIST**—The Board voted to make the mailing list of the bar association's membership available "at cost" to CLE organizations, bar associations, and other non-profit lawyers' organizations for limited purposes subject to agreement by the user organization not to use the list for mailings not approved by the Board.

■ **PRODUCTS LIABILITY LEGISLATIVE PROPOSALS**—Following comment by the Washington Association of Defense Counsel, the Washington State Trial Lawyers Association, the Trial Practice Section, and others, the Board reviewed policy recommendations of the Legislative Committee's Special Bar Subcommittee on "Products Liability" Legislation. The Board (albeit by divided vote as to some items) instructed the bar association's Legislative Representative, William A. Gissberg, to take the following positions (indicated in parentheses) as to the subcommittee's recommendations regarding any proposed "products liability" legislation:

1. *Comparative Negligence.* Comparative negligence principles should be extended to all tort actions, including strict liability and liability without fault. *(Support.)*

2. *Liability of Retailers and Other Distributors.* The liability of such ones who are in the chain of distribution of a defective product, as contrasted with the manufacturer, should be predicated upon negligence rather than strict tort liability and liability without fault. Where the fault or negligence of those in the chain of distribution is not put in issue, they should be able to obtain an early dismissal from the suit, except in cases where the manufacturer is not subject to jurisdiction. *(Support.)*

3. *Apportionment of Fault.* A method should be established by which the degree of fault of parties and damages caused by each can be apportioned among them. The fault of non-parties should not be considered in apportioning the degree of fault or damages of parties. The fault of plaintiffs employer, if immune, should not be considered. *(Support, With no position taken as to the second sentence.)*

4. *Joint and Several Liability.* Each defendant should be jointly and severally liable to plaintiff regardless of the degree of causal fault of such defendant and even though plaintiff is partly at fault. The doctrine of joint and several liability should be preserved. *(Support.)*

5. *Contribution.* The common law rule prohibiting con-

tribution among joint tort feasors should be abolished. An action for contribution by one joint tort feasor against another should lie. Furthermore, an action for contribution in any tort claim by a defendant should lie against the negligent employer of plaintiff injured workman, but the amount of contribution from the negligent employer should not exceed the amount of such ones liability to the workmans compensation fund. (Changing the result of *Davis v. Niagara Machine,* 90 W. 2d 342). The concept of the right of contribution as expressed in Section 3 of the third draft of the House Bill (being the same as Section 4 of the Uniform Comparative Fault Act) is favored. A good faith release between plaintiff and one defendant should release that defendant from all liability for contribution to other defendants. *(Support.)*

6. *Reallocation of Share of Insolvent Defendant.* If the share of damages allocated to one of the several defendants is uncollectible, reallocation of that share should take place among all parties, at fault, including plaintiff, according to their respective percentages of fault. (This provision is contained in Section 2 (d) of the Uniform Act.) *(Oppose.)*

7. *Release.* The common law rule which provides that the release of one joint tort feasor is a release of all others should be abolished. Plaintiffs release of one tort-feasor should reduce plaintiff's claim against the other defendants by the amount paid for the release. A good faith release between plaintiff and one defendant should release that defendant from all liability for contribution to other defendants. *(Support.)*

8. *Adamum Clause.* There is no objection to a statute prohibiting a prayer for damages in the complaint if defendants are given the right to request and obtain from plaintiff a statement of the amount of damages sought. *(Support.)*

9. *Defenses.* In a products liability action, the "state of the art" should be a defense in a defective design case but not in a manufacturing defect case. (Under present law such a defense is not available in either case.) Any affirmative defenses made available to a defendant should be required by statute to be pleaded. *(Oppose.)*

10. *Collateral Source Rule.* There should be no change in the present common law collateral source rule. *(Support.)*

11. *Statute of Limitations.* There should not be a special statute of limitations or of repose for products liability cases. *(Support.)*

12. *One Stage Trial.* The questions of the amount of damages, which of several defendants are liable to plaintiff, the comparative fault of plaintiff and the percentage of the total fault of all parties to each claim that is allocated to each defendant should all be determined in one trial proceeding and not separated into two stages. A two-stage approach is unwise and will delay the judicial process and is best left for the court to determine in individual cases. *(Oppose, the consensus being that the matter should be left entirely to the Court's discretion.)*

13. *Subject Matter of Legislation.* Any so-called "products liability" bill should deal not only with that specific subject but should also treat the related tort law subjects of contribution and apportionment and defenses. *(Oppose.)*

14. *House v. Senate Bill.* The general approach of the third draft of the House Bill is favored over Substitute Senate Bill 2744. *(Support.)* □

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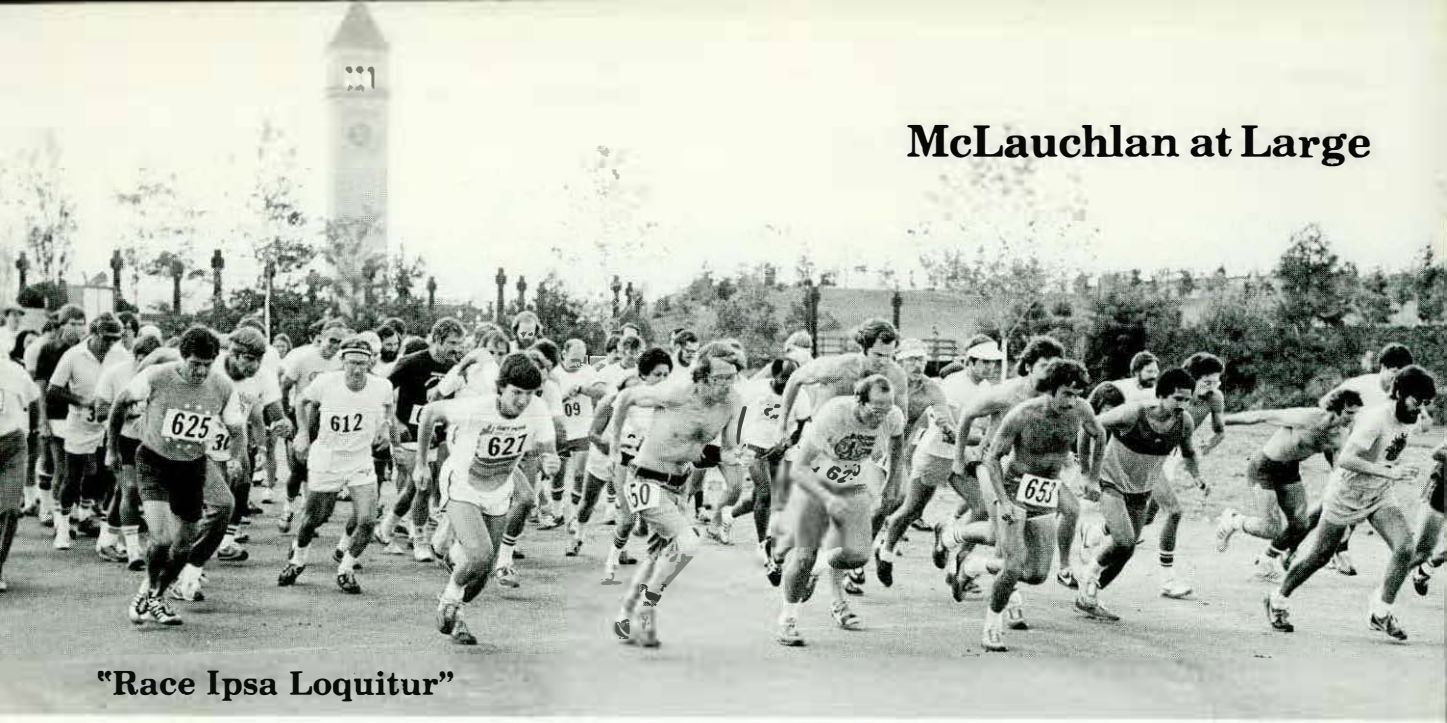

"Race Ipsa Loquitur"

Annual Meeting Highlights

George W. McCush, Bellingham

Philip J. Poth, Seattle

Spokane 1978

Photographs by John D. McLauchlan

R. Max Etter, Sr., unidentified referee, and Philip J. Poth (again!)

Doug and Susan Jewett, Seattle

Dick and Dolores Riddell, Seattle

Chief Justice Charles T. Wright delivering the State of the Judiciary address.

Justice Oris L. Hamilton (left), with Presidents David D. Hoff and Edward J. Novack.

Lorraine Novack with Dr. Joyce Brothers.

University of Texas Basketball Coach Abe Lemons (right), shaking hands with awestruck admirer, on speaker's platform with Board Members David A. Welts, Michael J. Hemovich, and Willard Walker.

Wade McCree, Jr., the Solicitor General of the United States, being interviewed by reporters.

Special Award of Honor

FIFTY YEAR LAWYERS. Honored at the Annual Meeting for completing fifty years' service as members of the Washington Bar were (l. to r.) Mitchell Doumit, Frank J. Blade, Cameron Sherwood, Justin C. Maloney, George W. Young, H. W. Haugland, and J. Lael Simmons. Also cited, but not available to be photographed, were Hon. George H. Boldt, Reuben C. Carlson, Elvin P. Carney, Hon. Hobart Dawson, Gordon B. Dodd, L. Vincent Donahue, William E. Evenson, Ernest T. Falk, Wharton T. Funk, J. William Goulder, Fred L. Harlocker, Harry Henke, Jr., Maurice W. Kinzel, Stanley B. Long, Lucien F. Marion, Clinton L. Mathis, Carl Gustave Nordquist, Marcus Raichle, John M. Schermer, Edward F. Stern, Richard S. Strong, George R. Stuntz, Hon. Frank P. Weaver, Hon. William J. Wilkins and Wm. F. Lucht.

A Short Reminder re Mandatory CLE

John J. Michalik
Director of Continuing Legal Education

As we approach the end of the calendar year, it is perhaps appropriate to use this column to remind all active members of the Washington State Bar Association who are subject to the provisions of APR 11 (the mandatory CLE Rule) that 15.00 hours of approved continuing legal education activity, for calendar 1978, must be *completed* by December 31, 1978 and *reported* to the State Board of Continuing Legal Education by January 31, 1979.

For convenience in making this report, we presently intend to enclose an affidavit form for this report with the 1979 State Bar Dues Statement, which will be mailed in December.

With certain limited exceptions, all *active* members of the State Bar are subject to the continuing legal education requirement for 1978. Those who are exempt from the 1978 requirement include (1) attorneys admitted to practice in 1977 or 1978 and (2) certain other attorneys who have been granted specific exemptions by the Board of Continuing Legal Education. Inactive members of the Bar Association are not, of course, subject to the requirement.

For further information relative to the mandatory CLE Rule in general and specific questions pertaining thereto, such as computation of credits, see the provisions of APR 11 and the Regulations of the State Board of Continuing Legal Education.

Approved Continuing Legal Education Activities

COURSES APPROVED

BERLIN SEMINARS
1978 Berlin Seminar
Dec. 10-17, 1978: Puerto Vallarta, MEX 16.00

NATIONAL PRACTICE INSTITUTE
Tax Aspects of Divorce
Dec. 15, 1978: Seattle 6.00

NEW YORK LAW JOURNAL
Aviation Accident Litigation
Dec. 7-8, 1978: Los Angeles 11.00

PRACTISING LAW INSTITUTE
Post Mortem Estate Planning
Dec. 14-15, 1978: San Diego 12.00
Bankruptcy Reform Act of 1978
Dec. 14-16, 1978: Seattle 15.00

WASHINGTON STATE BAR ASSOCIATION
Legal Problems of the Disabled
Nov. 21, 1978: Spokane 4.50
Dec. 1, 1978: Seattle 4.50
Condemnation Practice and Procedure
Dec. 1, 1978: Olympia 5.00
Dec. 8, 1978: Pasco 5.00
Dec. 15, 1978: Spokane 5.00
Dec. 19, 1978: Seattle 5.00

Discipline

Ronald G. Fenili Ordered Disbarred

Attorney Ronald George Fenili has been ordered disbarred by the State Supreme Court. Fenili was disbarred pursuant to a stipulation entered into between himself, his counsel and State Bar Counsel, which was adopted by the Disciplinary Board. This notice is published pursuant to DRA 11.7(c)(1).

Committee Reports

CODE OF PROFESSIONAL RESPONSIBILITY COMMITTEE

Formal Opinion #168
Obligations of Court-Appointed Criminal Defense Counsel When Learning That Client No Longer Indigent

An opinion has been requested regarding the obligations of Court-Appointed Criminal Defense Counsel who learns that his/her client is no longer indigent. The following inquiries and responses set forth the Committee's position:

1. Must the attorney formally advise the court of the client's change of circumstance and further seek either discharge as appointed counsel or appointment under a "part payment" plan pursuant to C.R. 3.2 (d)(2)?

Response:

Assuming that the client is no longer eligible for appointed counsel, a court-appointed attorney should formally advise the court of the client's change of circumstances. CrR 3.1(b)(2) provides that counsel who is initially appointed shall continue to represent the defendant "through all stages of the proceedings unless a new appointment is made by the court following withdrawal or original counsel pursuant to Subsection (e) because of geographical considerations or other factors make it necessary." Accordingly, the court-appointed attorney should either seek withdrawal in the manner permitted under CrR 3.1 or seek continued employment under a "part payment" plan as specified in CrR 3.1(d)(2).

2. Must the attorney advise the client that the client is no longer eligible for a court-appointed attorney and that he/she is seeking discharge (or simply withdrawing) from the appointment.

Response:

Prior to advising the court of the client's change of circumstances, a court-appointed attorney must advise the client that the attorney believes the client is no longer eligible for a court-appointed attorney. If the attorney seeks withdrawal pursuant to CrR 3.1(3), the client should be advised in advance of this fact.

3. Must the attorney advise the client that the client is now entitled to seek, retained counsel of his or her choosing?

Response:

Yes

4. May the attorney encourage the client to continue employment because of the attorney's familiarity with the case?

Response:

Yes. This does not constitute solicitation. See DR 2-104(A) (1).

5. If the attorney does not fulfill such duties as the Committee feels apply, may the attorney nonetheless charge the client for services rendered?

Response:

No. The imposition of postpreceeding payment obligations upon an accused's exercise of the right to counsel without providing the client an opportunity to discuss the fee involved, in advance, is probably arbitrary and violative of due process protections. *State v. Edie,* 83 W.2d 676, 521 P2d 706 (1974). The client should not be charged for the Attorney's services unless the fee arrangement has been discussed and agreed upon in advance. *Cf.* EC 2-19. □

New Public Defender Named

After conducting a national search, the Board of Directors of the Seattle-King County Defender Association has announced the selection of Robert C. Boruchowitz as the new Public Defender.

Boruchowitz is a graduate of Northwestern University School of Law in Chicago and of Kenyon College in Ohio. For nearly five years he has been an attorney with the Defender Association representing indigent persons at trial and on appeal. He has been responsible for the defense of death penalty cases and recently addressed the State Bar Association convention on aspects of the death penalty law.

Originally from New Jersey, Boruchowitz previously worked with the United States Attorney in New York City and the Legal Aid Society in Honolulu. He is admitted to practice law in California as well as Washington.

Boruchowitz will be the fourth King County Defender since the office began as a Model Cities Project in 1969.

GSLSA Upcoming Workshop Series

NOW is the time to mark your calendars. Greater Seattle Legal Secretaries Association's workshop series is tentatively scheduled as follows: 1/27 Litigation; 2/24 Municipal and district court practice/judgments; 3/3 Mock PLS exam; 3/24 Powers of attorney, changing wills, codicils, beneficiaries / immigration; 4/28 Unlawful practice of law by legal secretaries and legal assistants / appellate procedure. For more information please call Teresa Anderson at (206) 783-8307 or Janet Schmoker at (206) 682-8770.

Notices

PROFESSIONAL

Dan P. Danilov of the Washington State Bar announces his availability to lawyers for consultations and referrals in U.S. Immigration and Nationality matters re: applications for nonimmigrant and immigrant visas, admission to United States, adjustment of status to permanent residence, and other proceedings before American Consulates abroad and U.S. Immigration Service in United States.

Latest booklet and information about U.S. Immigration Laws sent upon request without charge.

Dan P. Danilov, Esq.
3828 Seattle First National Bank Bldg.
Seattle, Washington 98154
Telephone (206) 624-1580

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Tony Canorro, Esq.
7708 California Avenue, S. W.
Seattle, Washington 98136
Telephone (206) 932-8651

Ronald D. Flansburg of the Washington State Bar announces his availability for appellate consultation or association in matters of notices, motions, evaluation and development of appellate arguments and briefs or client referrals.

CONTACT:

Ronald D. Flansburg, Esq.
P.O. Box 7625
Olympia, Washington 98507
Telephone (206) 943-8888

D. Bruce Gardiner is available for advise and assistance to attorneys whose clients have legislative problems.

Mr. Gardiner has been a practicing lobbyist for 10 years, representing a wide variety of interests before local and state governments and is a member of the Washington Bar.

D. Bruce Gardiner, Esq.
1644 116th NE
Bellevue, Washington 98005
Telephone (206) 455-0440

John O. Durkan announces his availability to assist lawyers to guide clients through civil or fraud tax audits, to negotiate settlements or to prepare and try federal tax cases before the U.S. District Court or the U.S. Tax Court.

Mr. Durkan served seventeen years with the IRS as corporate auditor, review and trial attorney and as Assistant Appellate Counsel of the Seattle District. Member of Washington and Montana Bars.

John O. Durkan, Esq.
155 N.E. 100th, Suite 403
Seattle, Washington 98125
Telephone (206) 523-5783

Roger B. Ley announces that he wishes to associate with other lawyers and assist in the defense of OSHA, WISHA, MSHA and similar cases.

Mr. Ley was formerly an attorney with the Solicitor's Office, Department of the Interior, where he was assigned to MESA (now MSHA), the Federal agency which enforces laws related to occupational health and safety in mines. He was involved in the defense of litigation and in advising the Administrator on many legal issues which faced the agency.

Mr. Ley is now in private practice in Seattle, Washington.

Roger B. Ley, Esq.
715 Hoge Building
Seattle, Washington 98104
Telephone (206) 624-0130

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For Sale: Collectors' old law books with leather covers, $1.00 each or best offer FOB — Waterville. Telephone (509) 745-6031; write Box 26, Waterville, WA 98858.

For Sale: ALR 2nd and 3rd, current including digest, etc. $1,500.00. Terms available. Bob (206) 932-2434.

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For Sale: Mag Card A, 2 years old, in excellent condition as under maintenance full time. $7,000.00 or best offer. Ask for Bev. (509) 925-3191.

For Sale: Library and equipment of a deceased Snohomish lawyer at appraised value. Long term lease of building available. Call Andrew T. Nielsen, (206) 259-6184, Everett.

For Sale: Washington Reports, 1st., 2nd., and Appellate. All current. 1889 Territorial

Laws through Volume 90 leather bound. Very good condition. $3500. (509) 634-5962.

For Sale: 34 Volumes Washington Reporter, 453 P 2d, 456 P 2d through 565-567 P 2d. Call (206) 587-4813 Port of Seattle for bid form. Sealed bids will be accepted until December 20, 1978. Call (206) 587-4949 for information.

Office Space: Includes complete library, receptionist, fully furnished conference room and reception area, kitchen and lounge / study. Spacious individual offices and paralegal / secretary space for up to four attorneys. Seattle, (206) 682-9192.

Office Space: Private office in two-man office. Dexter Horton Building. Secretarial space and library. (206) 622-1340.

Office Space: Available for one attorney in attractive five attorney suite, central location, downtown Seattle. Reasonable overhead. Box 5, c/o Washington State Bar Association.

Office Space Available: Portions of choice full floor suite, 13th floor, Smith Tower. Share library, receptionist, conference room. Contact Jim McAteer or Sig Borgersen (206) 624-4212.

Very Reasonable Office Space: A small Wallingford neighborhood law office space for two attorneys will be made available in exchange for briefing and assistance. This space and the assistance of a senior experienced attorney for consultation should be an excellent vehicle for young attorney or attorneys to develop their own practice from scratch. Emphasis on criminal defense and real estate law. Call (206) 325-1098.

Deluxe Office Space for Rent: For 1, 2 or 3 attorneys; secretary, phone, copy and other services available. Contact Henry E. Lippek (206) 682-9580.

Office Space Available: Downtown Bellevue location. Includes all facilities and excellent library. Secretarial services available. Call (206) 454-0601.

Office Space Available: For one attorney, Bank of California Bldg., includes all facilities, excellent library, secretary, etc. Negotiable. (206) 623-2468.

Need Will: Of Howard R. Simpson, Portland, deceased 08-20-78, Attn. Vancouver, North Bend, Contact Kathy Strong, 3721 North Huson, Tacoma, WA.

Wanted: Whereabouts of a will for Arthur Gordon Barrett, who formerly lived in Federal Way and recently passed away in Georgia. Please contact: Stanley D. Taylor, (509) 547-9555.

Wanted: Information concerning will of Conrad Gettman of Walla Walla, Washington, d/o/d 4/15/78. Contact Donald Navoni, 3737 Bank of California Center, Seattle, WA 98164 (206) 623-8433.

Considering A Charitable Donation? The Boy Scouts of America has established a Real

Dec. 1	CLE Seminar: **Legal Problems of the Disabled,** Seattle Sea-Tac / Red Lion Motor Inn, half day, $25.00
Dec. 1	CLE Seminar: **Condemnation Practice and Procedure,** Olympia, Tyee Motor Inn, half day, $25.00
Dec. 8	CLE Seminar: **Condemnation Practice and Procedure,** Pasco, Red Lion Motor Inn, half day, $25.00
Dec. 14-16	**Bankruptcy Reform Act of 1978,** Seattle Practising Law Institute. Contact: PLI 810 Seventh Avenue, New York City, 10019 (212)765-5700
Dec. 15	CLE Seminar: **Condemnation Practice and Procedure,** Spokane, Davenport Hotel, half day, $25.00
Dec. 15	**Tax Aspects of Divorce,** Seattle National Practice Institute. Contact: NPI, 861 West Butler Square, 100 N. 6th Street, Minneapolis, Minnesota 55403 (612) 338-1977
Dec. 19	CLE Seminar: **Condemnation Practice and Procedure,** Seattle, Olympic Hotel, half day $25.00

Estate Procurement Committee to assist attorneys and accountants whose clients are considering a gift of real property. A gift of real property to the Boy Scouts is a tax deductible contribution and is used directly to further scouting projects. In most cases all costs of transfer are borne by the Boy Scouts. For more information contact Thomas Mesaros, Boy Scouts of America, 3120 Rainier Avenue South, Seattle 98114 (206) 725-5200.

POSITIONS

Position Available: Established litigation firm seeking associate with 2-5 years experience. Want attorney admitted to Washington and Alaska bars. Salary negotiable. Respond to Box 27, WSBA.

Positions Available: Idaho Legal Aid Services is seeking an Executive Director and a Litigation Coordinator. The Executive Director must be a licensed attorney with a strong background in administration / management. The Litigation Coordinator must be an attorney with a strong background in federal litigation. Send resumes to: Lee Gardner, Administrator, Idaho Legal Aid Services, P.O. Box 913, Boise, Idaho 83701.

Position Wanted: Washington attorney, LLM in Tax, NYU, 1977, 5 years general experience seeks association position or office space in exchange for services with firm needing tax, estate or general business planning. M. Silver, P.O. Box 4042, Seattle 98104.

Tax Attorney: LL.M. Taxation. Background in estate planning, pension & profit sharing, insurance, real estate, partnerships. Seeking position with firm in Seattle area. R.M.L., 916-20th Ave. East, Seattle, WA 98112.

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SUBJECT INDEX

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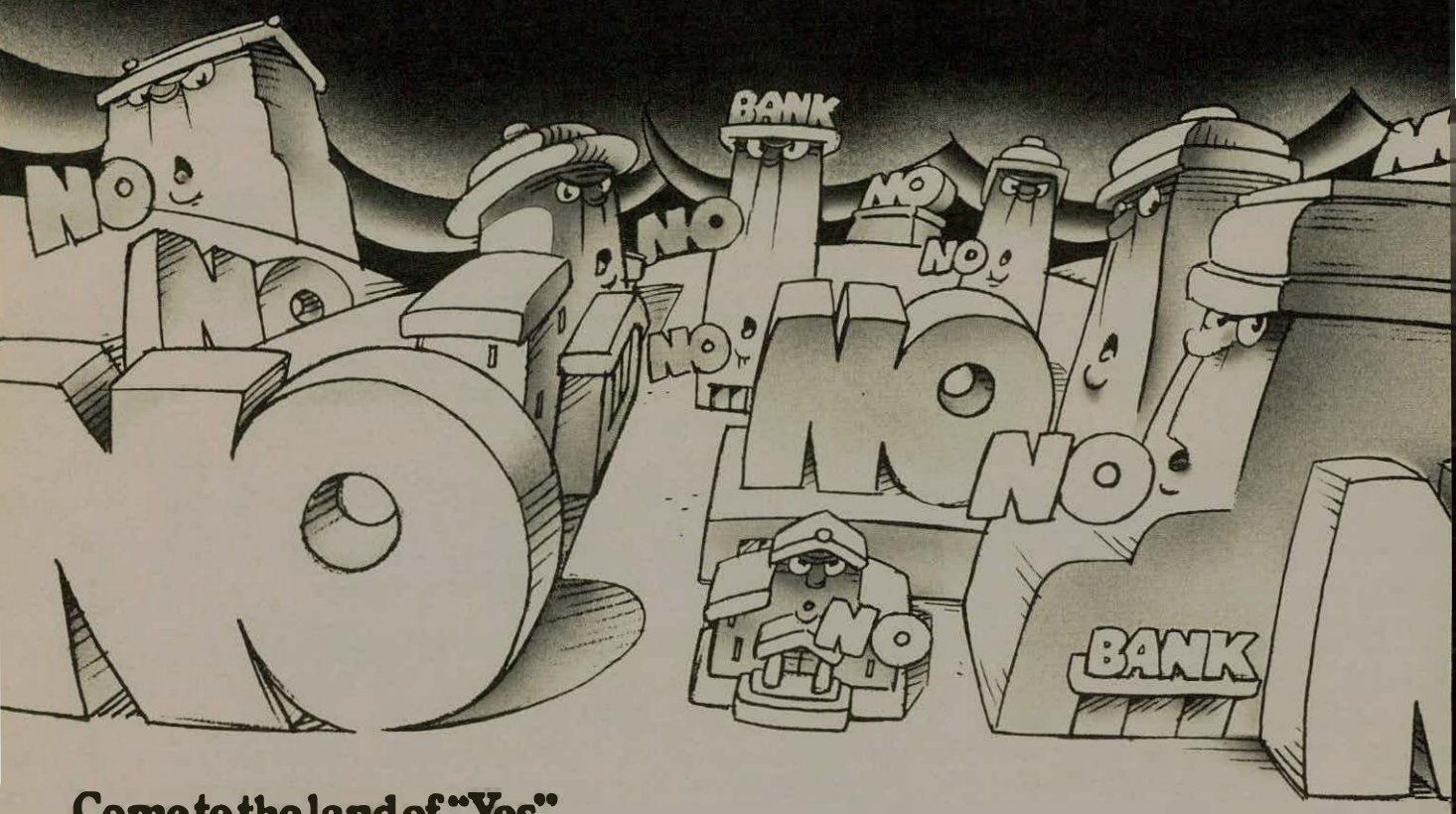
Does your bank live in the land of "NO"?



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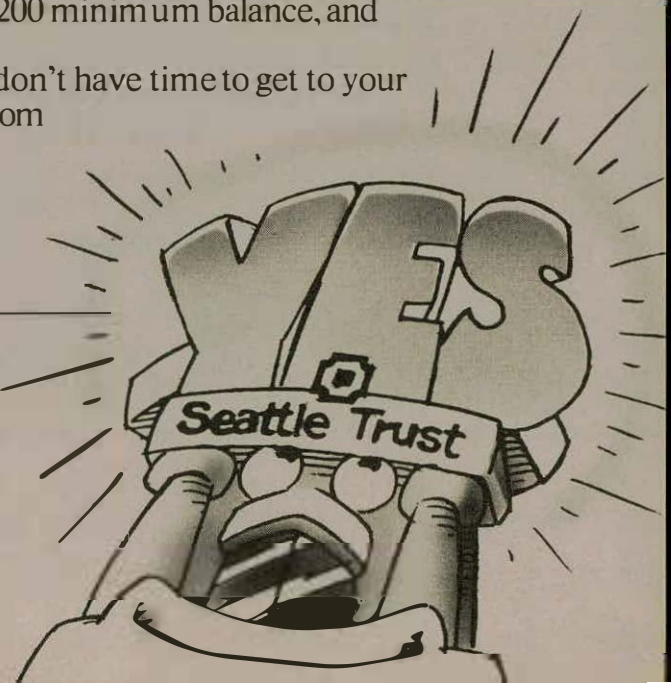

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