Construction Law Newsletter

Published by the Section on Construction Law of the Oregon State Bar Association

Issue No. 1

March 1, 1986

Federal Arbitration Act Now Controls

In *Southland Corp. v. Keating,* 459 US 1101, 104S Ct 852, 79 L Ed 2d 1 (1984), the Supreme Court held that a state law that conflicts with a provision of the Federal Arbitration Act violates the Supremacy Clause. There, several franchisees sued a franchisor. The franchisor moved to compel arbitration of the claims pursuant to the arbitration provision in the franchise agreements. However, the California Supreme Court interpreted the California Franchise Investment Law to require judicial consideration of those claims brought under that statute, and accordingly refused to enforce the parties' contract to arbitrate such claims.

The US Supreme Court noted that such an interpretation of the California statute conflicted directly with Section 2 of the Federal Arbitration Act. That statute mandates the enforcement of agreements to arbitrate in admiralty contracts or contracts involving interstate commerce. The Supreme Court reasoned that the Federal Arbitration Act was federal substantive law, which is applicable in state and federal courts.

A narrow reading of ***Southland*** is that the Federal Arbitration Act will supersede any provision of state law that attempts to restrict the enforceability of arbitration agreements in contracts involving admiralty or interstate commerce. The Supreme Court reasoned that the Federal Arbitration Act was federal substantive law, which is applicable in state and federal courts.

However, this case should be viewed in a much broader context. It also appears to stand for the broader proposition that the Federal Arbitration Act controls the arbitration of disputes arising out of contracts involving admiralty or interstate commerce. It supersedes any provision of state law which conflicts with the Federal Arbitration Act. For example, one should consider the impact of cases under the Federal Arbitration Act on the issue of waiver under state arbitration statues.

David T. Douthwaite

Star Rentals, Inc. V. Seeberg Construction Co., Inc.

In computing the time within which a lien must be filed, the date of completion of a construction project may be critical. Prior to the Oregon Court of Appeals decision in ***Star Rentals, Inc. v. Seeberg Construction Co., Inc.,*** *66* Or. App. 822, **677,** P2d 708 (1984), it was unclear when the date of completion was for purposes of ORS **87.035** when substantial completion was not necessarily the same date as the date of the filing of a completion notice. The Court of Appeals in ***Seeberg,*** has unequivocally held that if an Owner or Mortgagee elects to post and record a Notice of Completion of Construction, the date of the Notice of Completion is determinative of the completion date within the meaning of ORS **87.035.** It is not a question of which occurred first. If the completion notice is properly posted and recorded at a time authorized by ORS **87.045,** the date on which the improvement was substantially completed becomes irrelevant as the date of the completion notice is controlling.

Editor Comment: ***Star Rentals, Inc. v. Seeberg Construction Co., Inc. is currently on appeal. Moreover, query: of what significance is a completion date when the revisions to ORS 87.035 are considered?***

Amendment Of ORS 656.029 Regarding Workers' Compensation Of Independent Contractors

ORS **656.029,** which allocates responsibility for workers' compensation involving independent contractors has been entirely rewritten by the Oregon Legislature in House Bill **2590.** When the bill goes into effect September **12, 1985,** the joint declaration form commonly used by contractors to avoid liability for the workers' compensation coverage of subcontractors and their employees will no longer provide any protection. It is essential to anyone letting contracts that the requirements of ORS **656.029** be satisfied. Otherwise, one may be found to be a non-complying employer responsible for workers' compensation benefits of one's injured subcontractor or employee(s).

For the purposes of this article, the person letting the work is referred to as "general contractor," while the person to whom it is awarded is referred to as "subcontractor". The same rules may apply no matter who is letting or receiving the work, regardless of tier. For example, a subcontractor letting work to a subcontractor is the person letting the work and the subcontractor is the person to whom it is awarded. A construction owner may even have some exposure under ORS **656.029** if he is a person awarding a contract involving the performance of labor which is a normal and customary part or practice of his trade of business. In that case, the party letting the work is the owner and the person to whom the work is awarded is the general contractor.

The general rule still is that the person letting the work to another (general contractor) is responsible for providing workers' compensation coverage for all individuals, other than those exempt under ORS **656.027,** who perform labor

Continued On Page 2

Continued From Page 1

under the contract, unless the person to whom the contract is awarded (subcontractor) provides such coverage for those individuals before labor under the contract commences. If no workers' compensation is provided by the subcontractor, and an individual in his employ performing work incurs a compensable injury, the general contractor is treated as a non-complying employer. The following are exceptions under the new bill for which the general contractor is not responsible even if his subcontractor does not provide workers' compensation coverage for himself and his employees:

1. If the subcontractor is exempt under ORS 656.027 (most relevant exceptions applicable to the construction industry being a sole proprietor and partners not directly involved with the actual construction;
2. If the subcontractor has been certified by the Employment Division as an independently established business; and
3. Where an exempt person is awarded a contract, and subsequently engages non-exempt individuals to perform the work.

The simplest and lowest risk way for a general contractor to avoid being held a non-complying employer under ORS 656.029 is to require in a written contract that the subcontractor:

1. Maintain workers' compensation insurance on himself and his employees;
2. Provide proof of such coverage to the general contractor prior to the commencement of any work under the contract; and
3. Provide in his workers' compensation insurance policies that the general contractor shall be notified prior to any cancellation of coverage.

It is essential that the contract provisions be enforced. It is not enough that the subcontractor be required by the contract to provide workers' compensation coverage. He must actually ***provide*** the coverage.

If the general contractor does not want to require that his subcontractors carry workers' compensation insurance, he must rely on the exceptions set out in ORS 656.029. He must obtain proof that his subcontractor is certified by the Employment Division as an independently established business or he must be satisfied that the subcontractor is exempt under ORS 656.027. Note that certification by the Employment Division does not protect the general contractor where the subcontractor is a partnership engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of the improvement. The status of the subcontractor must be carefully monitored during the life of the contract. If he ceases to be exempt (e.g., changes from sole proprietor to corporation) or loses his independent certification from the Employment Division, the general contractor may be exposed to workers' compensation liability unless the subcontractor carries adequate insurance.

Bruce Lee Schafer

Minutes
Annual Section Meeting During Bar Convention

The Annual Meeting of the Oregon State Bar Construction Law Section was held from 5:00 p.m. to 6:00 p.m. on October 3, 1985, in the Ferber Room of the Eugene Hilton Hotel.

Outgoing Chairman John Bradach reported on the past year and identified the past Section officers. He recommended that the Section maintain Charles R. Schrader, Richard E. Alexander, and William Cloran as Chairman of the Legislative Committee, the Newsletter Committee, and the Continuing Legal Education Committee, respectively. Mr. Bradach indicated they had done a good job and that the continuity would be beneficial until the committees were fully functional. His recommendation was approved.

Charles Schrader gave his Legislative report. He reported there had been drastic changes in the Oregon bond statutes; commented on Senate Bill 740, regarding no damage for delay; highlighted the changes relating to construction lien laws (HB 2334); and noted the change in public bidding laws (HB 2311).

Ron Somers gave a brief financial report, stating the Committee had $1,506.30 in its account.

Jim Huegli, Chairman elect, solicited comments regarding how to get more Section members involved. He reported that his primary emphasis, during the next year, would be on producing a quality CLE and newsletter.

The Committee then elected the following officers, to serve for the next year.

Chairman elect: ***J. Terrence Bittner, Portland***
Secretary: ***Ronald M. Somers, The Dalles***
Treasurer: ***David Trachtenberg, Portland***
Executive Committee Members:
William C. Tharp. Ontario
John F. Bradach. Portland
Peter J. Barnhisel, Corvallis
Mike Scott, Tigard
Existing Executive Committee Members:
Dick Alexander
Bill Cloran
Chuck Schroder
Art Tarlow

John Bradach reported he had taken steps to secure a room in Vancouver, for the 1986 Annual Meeting.

There being no further business, the meeting was adjourned.

J. Terrence Bittner

Changes In Oregon Construction Law – Excerpted from "1986 Oregon Legislation" - OSB

Note: Unless otherwise noted, all Legislation takes effect on September ***20, 1985.***

I. CONSTRUCTION CLAIMS

A. **1986** OR Laws ch **626 (HB 2637)**

Little Miller Act

ORS 279.526 concerns rights of action against the bond of a contractor performing work for an Oregon public agency. The 1983 Legislature deleted a notice requirement. The effect of the deletion was to allow subcontractors and supplier to subcontractors to make claims on the bond long after final payment has been made to the subcontract in question. In effect, a six-year time period existed within which claimants could initiate an action on the prime contractor's bond. HB 2637 amends ORS 279.526 and provides that a person claiming to have supplied labor or materials for the work provided for in the contract has a right of action of the contractor's bond (or chashier's check or certified check as provided in ORS 279.029) only if:

(1) The claimant or the assignee of the claimant has not been paid in full; and

(2) The claimant gives written notice of the claim to the contractor and the secretary of state, if the contract is with a state agency, or the clerk or auditor of the public body which let the contract, if the public body is other than a state agency.

Such notices must be sent by registered or certified mail or hand delivered no later than 120 days after the day the claimant last provided labor or furnished materials on the job. The notice may be sent or delivered to the prime contractor's residence or to any place the prime contractor maintains an office or conducts business. A special 150-day notice period is provided for claims brought by employee benefit plans. Such notice must **be** sent or delivered within 150 days after the employee for whose benefit the claim is being made last provided labor or materials. HB 2637, § *2.*

HB 2637, §3, also requires that an action on the bond **be** instituted no later than two years after the claimant last provided labor or materials. The old provision of ORS 279.536 required that the suit be instituted no later than two years after the acceptance of the work by the affirmative action of the public body which let the contract. Since most public agencies do not affirmatively accept public contracts, the effect of this change is to reduce substantially the time within which actions against a bond may **be** filed.

B. **1986** OR Laws ch **286 (SB 740)**

No Damage **for** Delays

SB 740 codifies an exception to the so-called no damage for delay clause in construction contracts. The bill provides that any clause in a public contract for a public improvement that purports to waive, release. or extinguish the rights of a contractor to damages or an equitable adjustment arising out of unreasonable delay in performing the contract, if the delay is caused by acts or omissions of the public contracting agency or persons acting therefor, is against public policy and is void and unenforceable. SB 740, § 2.

It should **be** noted that SB 740 applies only to public contracts and only to contractors (not subcontractors). It should also be noted that the bill merely voids clauses that limit damages for "unreasonable" delay. Delay that was reasonable is not subject to the strictures of SB 740 and a clause that limits a contractor's recovery to an extension of time in such case is probably enforceable.

SB 740 is substantially similar to a Washington statute. Wash Rev Code § 4.24.360.

COMMENT A question remains as to which delays are "reasonable". Counsel for public agencies probably will argue that delays within the contemplation of the parties are per se reasonable. Judicial interpretation probably is necessary before the ultimate impact of SB 740 is understood.

C. **1986 Or** Law ch **436** (SB **615)**

Interest on Claims

ORS 279.575(4) provides for interest to be paid to a contractor upon settlement or judgement of a claim from the later of certain specified dates. Since 1981, the rate of interest to **be** paid by public agencies under ORS 279.575(4) has been 1½% per month. SB 615 modifies that rate **of** interest such that it is now twice the federal discount rate as established by the Twelfth Federal Reserve Bank at the time of settlement or judgment but not to exceed 18%. In addition, the bill requires that the interest shall be added to and not made a part of the settlement or judgment.

11. CONSTRUCTION LIENS

A. **1986** OR Laws ch **596** (SB **98)**

Construction Lien Claim Period

SB 98 was proposed to deal with some of the problems raised in recent cases arising under Oregon's rather complex construction lien statutes. Under prior law, **a** construction lien claim was required to be filed within 90 days after the claimant ceased to provide labor, rent equipment, or furnish materials or within 60 days after completion of construction, whichever was earlier. SB 98 changes this dichotomy so that all claimants have 90 days within which to file their claims. SB 98, § 1. Those persons claiming under ORS 87.010(1) or (2) must file within 90 days after they cease to provide labor, rent equipment, or furnish materials. All other persons claiming under ORS 87.010 must file within 90 days after completion of construction.

Additionally, the act allows any "original contractor" to post a completion notice and thus fix, in most cases, the

Continued On Page *4*

Continued From Page 3
time when the 90-day notice period begins to run. SB 98, § 2. No changes were made in the statutory definition of "construction completion."

B. **1985** Or Laws ch **341** (HB **2002**)
Commencement **of** Construction Lien Foreclosure Action

ORS 87.015 provided that no construction lien binds any improvement for a period longer than six months after the lien is filed unless suit is brought within that period (or if certain extended payment provisions have been made). HB 2002 amends ORS 87.015 and provides that a suit to enforce a construction lien is deemed Commenced when the complaint *is* filed and the summons is served as provided by **ORS** 12.020. With regard to defendants who are other construction lien claimants, however, a suit to enforce the lien is deemed commenced when the complaint *is* filed, whether or not summons or service on such defendants is completed within 60 days.

C. **1986** OR Laws ch **513** (HB **2334**)
Shortened Duration **of** Construction Lien

HB 2334 expands rights and limitations for the benefit of mortgagees. HB 2334 provides that a lien claimant must mail to the owner and the mortgagee a notice in writing that the claim has been filed. HB 2334, § 3. Furthermore, a copy of the lien must be attached to the notice. The notice must be mailed no later than 20 days after the date of filing to preserve a claim for costs, disbursements, or attorney fees as allowed by ORS 87.060.

Prior law, ORS 87.015, provided that no lien bound any improvement for longer than six months. HB 2334, § 4, reduces this period to 120 days, requiring lien claimants to commence foreclosure suits roughly two months earlier than under prior law. As noted above, however, HB 2002 effectively gives a lien claimant an extra 60 days after filing the complaint to accomplish service of process.

III. BIDDING

A. 1986 Or Laws **ch 724** (HB **2311**)
Bid Rejection

HB 2311, § 3, amends the Oregon public bidding law at ORS 279.035 to provide that a public contracting agency may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may, for good cause, reject any or all bids upon a binding of the agency that it is in the public interest to do so.

COMMENTS: A number of public contract practitioners in the state urged the governor to veto this bill because of the addition of the right to reject any or all bids. It seems that such wording gives public agencies the right to selectively eliminate bids upon a finding of "good cause'' and thus subvert the basic tenet of public bidding that bids should be awarded to the lowest responsive and responsible bidder. The element of discretion provided by this bill may lead to substantial litigation if public agencies fail to follow precedent with regard to responsive and responsible bidding.

B. **1985** Or Law ch **769** (HB 2577)
Minority Contractors

In response to a number of controversies, particularly in the Portland area, regarding minority contractor "goals," HB 2577 was introduced at the request of the Associated General Contractors. In short it establishes rules for "good faith effort" by bidders on public contracts in securing minority or women business enterprise (WBE) subcontractors and also requires that public contracting agencies throughout the state rely on certification of minority business enterprises (MBE) by the Oregon Department of Transportation. HB 2577, § 2. Presumably, it also applies to disadvantaged business enterprises (DBE). In addition, HB 2577, § 3, gives the Oregon Department of Transportation exclusive authority to certify minority and women enterprises on and after June 1, 1987.

The bill provides that a number of activities by a bidder constitute a rebuttable presumption that the bidder has made in a good faith effort to satisfy subcontracting requirements involving minority or women business enterprises. HB 2577, § 2(2).

COMMENT This bill is in direct response to what many contractors preceive to be a requirement by some public agencies of "quotas" as opposed to "goals" in MBE and DBE participation. Codifying the guidelines should have the effect of adding more certainty to the MBE, DBE, and WBE solicitation process and reduce litigation in this area. Similarly, centralized DBE and WBE certification should be of value to construction contractors and have a budget-reducing effect on local public agencies.

Charles R. Schrader

Legislative Notes

The 1985 Legislature enacted two statutes amending **ORS** 87.055. The first, HB 2002, enacted as Chapter 341 Oregon Laws 1985, provides that a suit to enforce a construction lien is deemed commenced when the complaint is filed and the summons is served as provided in ORS 12.020, but with regard to defendants who are other construction lien claimants, a suit to enforce the lien is deemed commenced when the complaint is filed, whether or not summonsorserviceonsuch defendantsiscompleted within 60 days. Apparently the statute was intended to

Continued *On* Next Page

overrule ***(Brown v. Farrell,*** 258 Or. 348, 483 P.2d 453 (1971), which held that the general statutes of limitations in Chapter 12 of the Oregon Revised Statutes did not apply to foreclosures of construction liens. Chapter 341 was approved by the governor July 3, 1985 and filed in the Office of Secretary of State July 5, 1985.

House Bill 2334, enacted as Chapter 513, Oregon laws 1985, amended ORS 87.055 to shorten the duration of a lien from six months to 120 days. Chapter 513 was approved by the governor July 10, 1985 and filed in the Office of Secretary of State on July 15, 1985.

Article IV, Section 22 of the Oregon constitution requires that when an act is revised, the amended statute must be published in full length. When the legislature revises the statute twice in the same session, without reference to the other section, the statute last effective is deemed to control. Even if the amendments do not conflict, as in the case with HB 2002 and HB 2334, only the latter statute may be deemed effective.

Thus, HB 2002, changing the method by which suits to foreclose construction liens are commenced, may not be effective. This matter was treated in greater detail in Opinion of the Attorney General issue July 23, 1971 by Lee Johnson and James Durham, 35 AG 782, in which cases discussing the Oregon Constitutional provision which creates the problem are discussed.

Frederic E. Cann

Rules and Forms for the Practitioner New to Construction Liens

Your prospective client wants to retain you to handle a construction lien claim. You either have not represented a claimant or defendant on a construction lien for years, or you have never done so at all. Your form files are woefully out of date. Whether your new client is an owner, original contractor, subcontractor, supplier, laborer or anyone else entitled to a lien under Chapter 87, the initial problems are the same: what are the rules and where are the forms.

Your first step should be to read through ORS Chapter 87 on construction liens, ORS 87.001 *et. seq.* These provisions will take you in orderly fashion through the entire lien process, from who is entitled to claim a lien, through notice and recording procedures, to foreclosure and satisfaction. For one of the most cogent and useful CLE articles, see also the chapter on Construction Liens in the Foreclosing Security Interests CLE by Jeffrey R. Spere and Norman Wapnick.

The next problem, once you have decided to take some action, is drafting a notice or pleading. Forms are available. The three primary sources are the above-mentioned CLE, Stevens-Ness, and other people's. The statutes prescribe the format for only two notices — notice of Right to Lien (Ors 87.023) and a Completion Notice (ORS 87.045).

The CLE provides forms for the above two notices, as well as forms for Notice to Owner of Filing a Construction Lien, Notice to Owner and Mortgage of Intent to Foreclosure, foreclosure complaints by the original contractor and subcontractor, and a foreclosure judgement.

According to the latest Stevens-Ness catalogue, forms for the following are available: all those provided in the CLE, and in addition, forms for claims by architects, engineers, surveyors, suppliers and materialmen, Release of Bond; Notice of Filing Release of Bond and Affidavit; and Satisfaction of Construction Liens.

Since the statutes do not require a particular format for these notices and pleadings (with the two exceptions mentioned above), you may properly rely on other practitioners' forms which cross your desk.

If the construction matter is a federal public works project, the Miller Act, 40 U.S.C. § 270(a) *et. seq.*, applies. The Lawyers Edition of Federal Procedure walks the reader through the entire process of claims regarding federal public works projects. The companion forms volumes supply forms for every conceivable notice and pleading required to prosecute or defend such claims.

Two words of caution: when using another's form, check the relevant statute to ensure that your notice or pleading contains all the required information; and determine whether the Legislature has recently changed any of the requirements.

The above sources and shopping list may not be complete. but they will provide a good start for timely filing and responses in an Oregon construction lien matter.

Stephen Lipton

Court Holds Contract To Employ Unregistered Engineer Unenforceable Due To Illegality

In ***Wheeler v. Bucketeel Co.,*** 73 Or. App. 495, 698 P2d 995, (1985) (Young J.), the Court held that an unregistered engineer was not entitled to recover compensation for certain industrial engineering services because such a contract was illegal. The Court stated that:

> *"The Professional Engineer Registration Act is designed to protect the public from evil 'which, from experience, we know society must be guarded against by preventive legislation.' (citation ommitted.) The dangers of incompetent engineers to the public at large are obvious."*

The Court then stated that they saw no basis for holding the legislature intended that the contract entered into in violation of express prohibitions should be valid.

Continued On Page 6

Continued From *Page* **5**

In analyzing the illegality, the Court relied on the case of ***Uhlmann v. Kin Daw,*** 97 Or. 681, 193 **P.** 435 (1920), for the proposition that in determining legislative intent one should distinguish between statutory duties which are collateral to the purpose of the contract and those which are central to it. It is necessary to look at the entire statutory scheme to determine whether the questioned contact is enforceable.

The Court looked at ORS 672.020(1) which requires an engineer to be registered and have a valid certificate before practicing. Then, citing ORS 672.045, the Court determined that the statutes contained provisions for the issuance of certificates on the basis of an examination or the proof of competence; for revocation of a certification for **gross** negligence or incompetence, conviction of a felony or unethical conduct; and for the creation of a state board to administer the statute. According to the Court, this statutory scheme was designed to prevent damage to the public by incompetent or untrained engineers.

General Contractor Liable For Workers' Compensation Under Previous Version Of ORS 666.029

E.W. Eldridge, Inc. v. Becker, 73 Or App. 631, 700 P2d 301, (1985) (Gillette, P. **J.**) ORS 656.029 is to be applied to the circumstances in existence at the time a worker is injured rather than at the time a contract is let. Thus, if the subcontractor has since become uninsured, an injured employee may be declared a subject worker of the prime contractor and eligible for benefits through the prime contractor's insurer. The Court stated that to comply the prime contractor need only obtain from the subcontractors it does business with, proof of coverage and assurance that such coverage will be maintained until the contract is performed.

(Note: See Schafer, "Amendment of ORS ***656.029*** regarding Workers' Compensation of Independent Contractors" in this issue for further information on this subject.)

Robert *S.* Green

Construction Risk Management In A Minute/Claims Made Versus Occurrence Forms

Contractors should be aware that many traditional liability insurance coverages are being revised from the usual "occurrence" to "claims-made" forms. The new Comprehensive General Liability Insurance policy (CGL), soon to replace the CGL in use, has been promulgated in several versions. one of which is a "claims-made" form. Other liability insurance coverages have made this transition.

What does this portend for contractors? It is important to distinguish between the coverage impact of these two forms and to make sure contractors understand how they might be affected.

The "occurrence" form, which has been with us for a number of years, means that the liability policy in effect at the time a covered loss occurs covers that loss, irrespective of when the claim is brought or when the settlement with the insured occurs. Stated differently, if a contractor is provided with notice of a loss in 1985 for which the contractor is liable and which loss occurred in 1981, the liability policy in force in 1981 will respond to the loss.

The newer "claims-made" form states that the policy in effect at the time written notice of a claim is filed responds to the loss, irrespective of when the incident causing the loss occurred. Using the facts above, the liability coverage in effect in 1985 would respond to the 1981 loss, because the time of reporting the loss controls, rather than the time the loss-causing incident occurred.

Contractors should know this change causes some problems which need careful consideration. For example, some liability policies written on a "claims-made" basis contain a retroactive date. This date allows the current policy to respond to acts that occurred prior to its inception and after the retroactive date if the acts are reported during the current policy period. This provision is standard in professional liability policies. The proposed new CGL policy probably will not have a retroactive date, which means full coverage for any prior acts is provided if the claims are made in the current policy period.

Another feature of importance is the extended reporting period used in "claime-made" policies. As long as a contractor continues to purchase liability insurance from the same insurer, such continuous coverage will provide a vehicle for claims as they are reported. Suppose a contractor wishes to withdraw from the contracting business and his or her liability coverage ceases to exist. What happens if, in 1987, a claim based on an injury which occurred in 1985 is reported? **No** current coverage is in place which will respond under the "claime-made" provision. A "run-off" provision can be purchased to pick up such future claims, even though there is no coverage in force.

This is a series of changes which require the contractor to use competent insurance representatives to make certain no gaps occur in the contractor's liability coverage.

Harry ***F.*** Brooks
Assistant Dean
Miami University
Oxford, Ohio ***45045***
(513) 529-2132

Contractors Defined

The following contractor definitions were taken from the SMACNA chapter in Colorado.

"Contractor – A gambler who never geets to shuffle, cut or deal!
Bid Opening – A poker game in which the losing hand wins.
Bid – A wild guesa carried out to two decimal places.
Low Bidder – A contractor who is wondering what he left out.
Engineer's Estimate – The cost of construction in heaven.
Project Manager – The conductor of an orchestra in which every musician is in a different union.
Critical Path Method – A management technique for losing your shirt under perfect control.
OSHA – A protective coating made by half baking a mixture of fine print, split hairs, red tape and baloney ... usually applied at random with a shot gun.
Strike – An effort to increase egg production by strangling the chicken.
Delayed Payment – A tourniquet applied at the pockets.
Completion Date – The point at which liquidated damages begin.
Liquidated Damages – A penalty for failing to achieve the impossible.
Auditor – People who go in after the war is lost and bayonet the wounded.
Lawyer – People who go in after the auditors and strip the bodies."

The Construction Law Section has scheduled a CLE for Portland on November **7, 1986.** Anyone interested in participating should call Bill Cloran at **378-4259** or Mike Scott at **620-4540.**

The executive committee members of the O.S.B. Construction Law Section urge you to become an active member of the section. Educational program and newsletter reports will be part of the many benefits available to section members. All members of the Oregon State Bar Association are eligible. . . ***Join Today!***

ANNUAL MEETING

The Annual Meeting of the Construction Law Section will be held on September **12, 1986,** at the Marriot Hotel immediately after the Business Meeting of the Oregon State Bar.

Please enroll me as an active member of the O.S.B. Construction Law Section. My $10.00 annual dues are enclosed. Send this coupon and check to:

Construction Law Section

Attn: _____

Name: _____

Address: _____

I am not a member of the Oregon State Bar but I want to receive your newsletter. My $10.00 is enclosed.

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Construction Law Newsletter
is published three times a year by
The Construction Law Section of the
Oregon State Bar.

OREGON STATE BAR
Construction Law Section
1776 S.W. Madison Street
Portland, Oregon 97205

ADDRESS CORRECTION REQUESTED

Non-Profit
Organization
U.S. POSTAGE
PAID
Portland, Oregon
Permit No. **341**