



The Bulletin

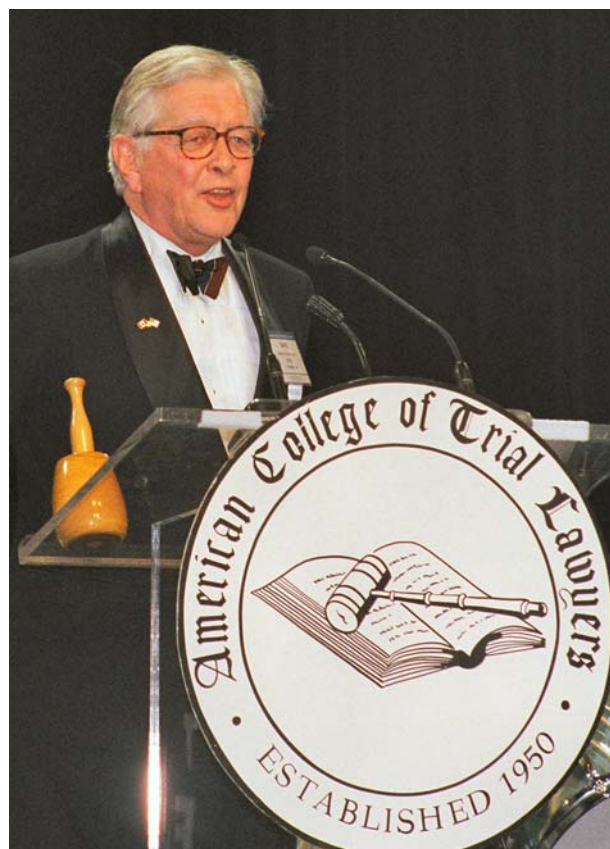
Number 46, Winter 2004

First Canadian President's Report

David W. Scott, Q.C.

Salutations à tous les fellows de votre président. What an extraordinary experience for a Canadian to represent the face of such a unique and prestigious organization as the American College of Trial Lawyers. While sometimes overwhelming, the weight of the privilege is constantly neutralized by the generosity of the Fellows, their warm welcome and their determination to make Alison and me comfortable in our travels across the continent.

And what an extraordinary group the Fellows, their spouses and partners are. Whether the Gwins, the Tellers, the Tongues, the Fortinos, the Wikstroms, the Goodins and the Sandwegs of Mississippi, Oregon, Utah, California and Arizona, or the Palmers, the Clendenings, the Sankbeils, the Kirsches and the Bausches of Kansas, Indiana, Michigan, Minnesota and Nebraska, we have been welcomed everywhere with unfailing warmth, courtesy and affection. Canadians and Americans have much in common, still, there are many engaging differences that make the partnership which is the College special. Our differences represent our strength. They ought to be preserved.



The meeting in Montreal, at which I was privileged to be inducted as your President, was a great success. A wonderful city with an especially energizing cultural environment. And a side trip to Quebec City for those of you who simply could not get enough of the Province of Quebec in Montreal alone. The meeting program was excellent. Constable Lyndon Slewidge's rendering of our magnificent anthems, coupled with greetings from

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**Immediate Past President Warren B. Lightfoot and wife, Robbie,
and new President David W. Scott, O.C. and wife, Alison**

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American College of Trial Lawyers The Bulletin

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♦ ♦ ♦

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FROM THE EDITORIAL BOARD

In this issue we report on the 53rd Annual Meeting of the College in Montreal, which saw the installation of our first Canadian President.

The College's national meetings are noted for speakers who bring thought-provoking messages. We are separately highlighting three speakers from the Montreal program. One, Dr. Irwin Cotler, addressed what is perhaps the foremost contemporary challenge to the rule of law, the threat of mass atrocities and terrorism to international human rights. His address, *International Human Rights, Revolution and Counter-Revolution*, is well worth your attention.

The second, Federal District Judge John S. Martin, Jr.'s address on the injustices in the current federal sentencing guidelines that prompted him to resign from the bench, calls for the attention of lawyers from every part of the practice.

Lawyers are frequently thrust into positions of leadership—in their firms, in bar organizations, in civic organizations—that call for skills not taught in law school. We deemed the address of J. Robert S. Prichard on the subject of *Advocacy and Leadership* to be worth the attention of every Fellow.

Included in this issue you will find a tear-out section that lists all the College's national committees, their missions and their current activities. If you want to become a participant in any of these activities, the president and president-elect will be happy to hear from you.

The Bulletin is presently the College's principal means of communication with its membership. You are its audience. We are constantly striving to make it more interest-

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2003 ANNUAL MEETING OVERVIEW

The Fifty-Third Annual Meeting of the American College of Trial Lawyers in Montreal, Canada launched the presidency of the first Canadian president of the College.

Bagpipers in full Scottish regalia led the opening session program participants to the dais. Senior Constable Lyndon Slewidge, the official singer for the National Hockey League's Ottawa Senators, led the audience in singing the national anthems of both the United States and Canada.

Lynne Kassie, Province Chair for Quebec, the first woman to chair a Canadian province, delivered the invocation.

Fellows and their spouses and guests were welcomed by Gérald Tremblay, Mayor of the City of Montreal, and Jean Charest, Premier of Quebec, both of whom are

lawyers.

Drawing on the lessons we have learned in the last fifty years, Dr. Irwin Cotler, former professor of law, a member of the Canadian Parliament and a leading exponent of international human rights,

spoke passionately about the revolution in human rights and humanitarian law and international criminal law in recent years and addressed what these experiences will require

of us in the future.

Forensic anthropologist and best-selling author Kathleen J. Reichs, Ph.D. described how she has used her work as a springboard for her fiction and how she uses that writing both to entertain and to educate her readers. At the end of the meeting, the Montreal Airport was filled with lawyers and their spouses reading *Dejá Dead* or *Bare Bones* as they waited for their flights home.

To close the Friday morning session, retired United States District Court Judge John S. Martin, Jr. of the Southern District of New York made an eloquent plea for revision of the federal sentencing guidelines. Judge Martin recently resigned as a matter of conscience because of his disagreement with those guidelines.

On Saturday morning, the College made Associate Justice Louise Arbour of the Supreme Court of Canada an Honorary Fellow of the College. A former judge of the Court of Appeal of Ontario, Justice Arbour was appointed in 1996 by the Security Council of the United Nations to serve as Chief Prosecutor for the International Criminal Trial Tribunals for the former Yugoslavia and Rwanda. Then, effective September 15, 1999, she was appointed to the Supreme Court of Canada. In her response, Justice Arbour made a plea that the United States change its position and join in the newly organized International Criminal Court.

Justice Arbour was followed to the podium by J. Robert S. Prichard, President and Chief Executive Officer of Torstar Corporation, one of the world's leading media and book publishing companies, who titled his remarks *Advocacy and Leadership*. A lawyer, a former law teacher and university president, Prichard outlined his eleven lessons of leadership by influence.

Professor Eric D. Green, a nationally



Kathleen J. Reichs, Ph.D.

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ANNUAL MEETING OVERVIEW

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recognized mediator who specializes in “impossible” cases, related some of his experiences in dealing with such cases. Among his assignments have been the telephone anti-trust cases, the *Microsoft* case, the vitamin anti-trust price fixing cases and the Toms River, New Jersey environmental contamination claims.

Professor Harry F. Tepker, Professor of Law and holder of the Calvert Chair of Law and Liberty at the University of Oklahoma Law Center, spoke of the background and history of *Marbury v. Madison* and its significance in American jurisprudence.

The Saturday morning program ended with a presentation entitled, *Court Trial* by

Media by Retired Chief Justice of the Quebec Court of Appeal, Pierre A. Michaud, Q. C. Justice Michaud suggested that the College’s report on the Fair Trial of High Profile Cases should be granted more visibility and authority and that it should be made mandatory reading for members of the judiciary, trial attorneys and journalists.

In keeping with recent practice, new inductees to Fellowship attended a breakfast at which they were introduced to the College, its organization and function and its expectation of its members. Inductees and their spouses or guests were then entertained at a reception and luncheon.

At the annual banquet new Fellows were inducted into the College. Gerald A. McHugh, Jr., from Philadelphia, Pennsylvania, responded on behalf of the new inductees. ♦

COLLEGE RECOGNIZES RETIRING COMMITTEE CHAIRS

THE FOLLOWING DISTINGUISHED CHAIRS HAVE BEEN SENT A PLAQUE IN RECOGNITION OF THEIR SERVICES.

STANDING COMMITTEES—E. Osborne Ayscue, Jr, Charlotte, North Carolina, Communications; Charles H. Dick, Jr., San Diego, California, International; James L. Eisenbrandt, Prairie Village, Kansas, Federal Criminal Procedure; George E. Feldmiller, La Quinta, California, Judiciary; Paul D.K. Fraser, Q. C., Vancouver, British Columbia, Canada-United States; J. Clifford Gutner, III, Houston, Texas, National Trial Competition; William T. Hangle, Philadelphia, Pennsylvania, Federal Rules of Evidence; Charles B. Renfrew, San Francisco, California, Honorary Fellowship; George F. Short, Oklahoma City, Oklahoma, Emil Gumpert Award; Terry O. Tottenham, Austin, Texas, Teaching of Trial and Appellate Advocacy.

STATE AND PROVINCE COMMITTEES: Don Mike Anthony, California (Pasadena); Michael A. Beale, Arizona (Phoenix); Richard E. Brennan, New Jersey (Florham Park); Philip J. Callan, Jr., Massachusetts (Springfield); John A. DeVault, III, Florida (Jacksonville); James M. Doran, Jr., Tennessee (Nashville); A. L. Emch, West Virginia (Charleston); W. Roger Fry, Ohio (Cincinnati); Charles C. Gordon, Washington (Seattle); Harold L. Hensley, Jr., New Mexico (Roswell); Walter Jones, Jr., Upstate Illinois (Chicago); D. Kent Meyers, Oklahoma (Oklahoma City); Dave Oesting, Alaska (Anchorage); James B. Pressly, Jr., South Carolina (Greenville); Murvel Pretorius, Jr., Downstate Illinois (Peoria); J. Daniel Sagarin, Connecticut (Milford); Robert Spragens, Jr., Kentucky (Lebanon); Richard R. Sugden, Q. C., British Columbia (Vancouver); Frederick S. Ursery, Arkansas (Little Rock). ♦

HUMAN RIGHTS SCHOLAR ADDRESSES ROLE OF LAW IN COMBATING MASS ATROCITY

One of the world's leading authorities on human rights law told the Fellows at the Annual Meeting in Montreal that more has happened in the revolution of international human rights and humanitarian law and international criminal law in the last ten years than in the previous fifty. "Now we must ask ourselves, 'What have we learned and what must we do?', Dr. Irwin Cotler said in a major address entitled, *International Human Rights, Revolution and Counter-Revolution*.

He recapped the series of human rights abuses since World War II and called for a new culture of human rights in place of a culture of hate.

Professor of law and director of the human rights program at McGill University, Cotler is also a practicing lawyer and a member of the Canadian Parliament. Since the Montreal meeting, he has been appointed Minister of Justice in the newly formed government of Canadian Prime Minister Paul Martin.

Cotler told the College audience that one of the more profound and existential concerns of our day is the protection against mass atrocity and the emergence of international human rights and international humanitarian law and lawyering as a means and mechanism to combat mass atrocity.

The following excerpts from his speech carry his principal theses: "Let me begin then with the *first lesson*, what I would call the dangers of state-sanctioned incitement to hatred and international crime.... Nazism almost succeeded, and in the genocide of European Jewry did succeed, not only because of the industry of death and the technology of terror, but [also] because of the

ideology, indeed the pathology of hate. This teaching of contempt, this demonizing of the other, this is where it all begins...."

"[In addition to a new culture of human rights to replace of a culture of hate, we now need] a culture of respect in place of a culture of contempt, organized around foundational principles of international and comparative jurisprudence ... including respect for the inherent dignity of the human person, respect for the inherent dignity of all persons, the right of minorities to protection against group-vilifying speech.... [E]ven if we take different views with respect to whether we ought to combat racist hate speech in our fellow democracies, what ought to be clear is that we have to combat state-sanctioned hate speech where that becomes the culture of hate in the non-democracies, because unless we do so we may find ourselves going inexorably down the road to Nuremberg criminality.

"*Lesson number two*: Crimes of indifference, conspiracies of silence, the duty to protect.... [W]e have been witness to an appalling indifference in our day to the ethnic cleansing in the Balkans and the unthinkable and appalling indifference to ... the genocide in Rwanda and, what is worse, the preventable genocide in Rwanda.... It is our responsibility then to break down these walls of indifference, to shatter these conspiracies of silence. As Nobel Laureate Elie Weisel put it



Dr. Irwin Cotler

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only too well, 'Neutrality in the face of evil always means coming down on the side of the victimizer, never on the side of the victim.' And so, we must adhere to this ourselves if we are to convey this to others, that neutrality in the face of evil, whether that of individuals or that of states, is acquiescence, if not complicity with evil itself. It is not only abandonment of the victim; it ends up being encouragement of the victimizer.

"Lesson number three: Protecting human security, protecting against mass atrocities—towards a culture of prevention.... [T]he best form of peace-building, the best protection against mass atrocities, the best protection for safeguarding human security is the prevention of conflict to begin with. Yet, as the Carnegie Commission of nine case studies of war-affected counties showed, the international community spent eight times more dealing with the aftermath of war than dealing with the prevention of conflict to begin with.... [O]ne of the things we need to establish is a kind of early warning system where the incipient dynamics that are going to take us down the road to Nuremberg criminality already begin to assert themselves.

"[L]esson number four: ... the duty to intervene, the principle of international humanitarian intervention. If the duty to prevent and protect against mass atrocity is unavailing and proves unrequited, then a right, indeed a duty, may arise for the international community to intervene so as to avert humanitarian catastrophes from the incipient killing fields—what has come to be known as the doctrine of humanitarian intervention.... What we fail to realize is that in 1988 Iraq was engaged in a genocide.... [H]ad we intervened then, we might have spared ourselves the killing fields that were to follow, such as the ethnic cleansing of the southern Marsh Arabs, the Shiite Muslims, in the immediate aftermath of the Gulf War in 1991, these disappearances, killings, torture, repression, etc. that went on from 1990-1991

and afterwards until finally the intervention took place.

"Lesson number five: Bringing war criminals to justice—the cycle of impunity, the imperative of accountability, Nuremberg and its legacy. Regrettably, the struggle against impunity has not only failed to sufficiently factor in the importance of a culture of prevention, but it has even failed in the bringing of war criminals to justice after the fact, the ultimate in a culture of impunity.... [T]his struggle against impunity will require all of us here in the international community to recognize that states have not only a right, but a duty, an obligation, to bring war criminals to justice, to recognize that we need to invoke the full panoply of legal remedies available to us in order to accomplish this, that we support the principle of non-immunity for former or existing heads of state who have committed Nuremberg crimes, that we protect the right to asylum at the same time, that refugee laws should not be abused to provide base and sanctuary for international criminals, that we seek to develop and institutionalize, domestically and internationally, the revolutionary jurisprudential development in the struggle against impunity.

"Lesson number six: ... The International Criminal Court, the cornerstone of international humanitarian and criminal law. If the Twentieth Century can be known as the age of atrocity, it can also be known as the age of impunity, because few of the perpetrators were ever brought to justice. It took the killing fields in the Nineties, where genocide emerged as a paradigmatic form of armed conflict ... to make the idea of an international criminal court ... first proposed in 1948 in the immediate aftermath of the Nuremberg judgments, to make this a reality and to put into place the first ever permanent international court of criminal jurisdiction.... [B]ecause [of] the absence of the United States from being part of the international criminal court system, we are the losers, because we are not the beneficiaries of the enormous contribution that your

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repository of expertise and experience in matters of criminal justice can bring to an international criminal court, which, after all, is intended to be part of the culture of prevention, to avert by putting war criminals on notice that there will be no bases and sanctuaries, that there are no places to hide, to avert the development of killing fields to begin with, and then, if they do develop, to bring them to justice as part of a struggle against impunity and as part of a struggle for accountability.... I would hope that Americans will be those that will find themselves able to participate in this struggle in the exemplary manner in which they have contributed to the development of international, domestic and criminal justice at law in the past and hopefully in the future.

“[T]he last lesson ... has to do with the question of combating international terror. It has been said with 9/11—and every publication at the time said—that the world was changed. I don’t know whether the world was changed by 9/11 or [whether] what happened was the exposure of a darker evil that had been there before that we had not taken notice of. But what is clear is that 9/11, and particularly for Americans, ... has had a profound and transformative impact on our psyches as well as on our politics, on our priorities as well as on our purposes. It has transformed our way of life. And it has caused us to look differently at the notion of international terrorism.... [C]ounterterrorism law and policy should be seen as part of the promotion and protection of human rights. The notion that this is an issue of national security versus civil liberties is in my view a misleading configuration and characterization of what is before us, for counterterrorism law and policy is intended to protect not only the security of democracies, but to protect the most fundamental of rights, the rights to life, liberty and security of the person. And therefore counterterrorism should not be seen as being in competition with civil liberties but should be seen as

part of the larger struggle for human rights in our time....

“[W]e need a certain clarity of thinking that requires us to reject that moral and legal shibboleth that one person’s terrorist is another person’s freedom fighter. Rather, we ought to adopt the position and principle that one democracy’s terrorist is another’s democracy’s terrorist and, simply put, that terrorism, from whatever quarter, for whatever purpose, is always and in every way to be prohibited under both international and domestic law....

*“[W]e have to join to what is our domestic criminal law due process model of terrorism another dimension. What we need is an international criminal justice model alongside the domestic criminal law due process model. By that I mean that ... international terrorism is not simply the commission of a domestic crime. What we are seeing here is the commission of transnational Nuremberg crimes in the horrific targeting of civilians.... [W]e are not talking about ordinary criminals in the domestic sense of the word. We are talking about *hostes humanis generis*, those who are the enemies of humankind. And in that context, we have to bring to bear not only our domestic criminal law and constitutional law remedies, but we must bring to bear our international law remedies including the principles of universal jurisdiction, so that the terrorists will know that their acts make them apprehendable and prosecutable wherever they go in the world ... as enemies of humankind, and that the kinds of crimes that they commit are prototypical crimes against humanity.*

“But as I said at the beginning, and with this I close, this last lesson of the last of fifty years with regards to terrorism and human rights [poses] a dilemma for democracies. Counterterrorism law and policy, while it is in its essence to be the promotion and destruction of human rights, nonetheless has to guard against overreaching in [the] manner in which it enforces and applies anti-terrorism law. You know of this in terms of the United

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States and the critiques that have been made by legislators, in the courts, American Bar Association and the like in the manner in which American law, anti-terrorist law and policy may have overreached for [the] right intention, but nonetheless overreached, in its prospective infringement on the rights of suspects....”

Dr. Cotler ended his address by pointing to the example of Raol Wallenberg, the Swedish citizen “who saved more Jews in the Second World War than almost any single government, who was made an honorary citizen of the United States and Canada, who has been referred to as a Saint Just of the nations and whom the United Nations has characterized as the greatest humanitarian of the Twentieth Century, who really emerged as one of the architects of international human rights and humanitarian law.... What he

taught us all, to use the proverbial refrain, is that one person with the courage and the compassion to care and to intervene can make a difference. What Raol Wallenberg has taught is that in the world in which we find ourselves, *qui s’excuse, s’accuse*, that whoever remains indifferent invites insult.”

Dr. Cotler closed by saluting the American College of Trial Lawyers, “because you are there and stand on the front line, because you are there to make a difference, because you understand that human rights is not just some macro theoretical concept, that it means the opportunity that each of us are given every day of our lives to make the world a little bit better for some individual victim of discrimination or disadvantage. Every time we act and act upon and benefit some victim of individual discrimination and disadvantage, we are participating in the larger struggle for human rights in our time. We are making a difference, and, in that sense, to the American College of Trial Lawyers, I salute you for your work in that regard.” ♦

ALABAMA LEADS THE WAY IN FOUNDATION SUPPORT

ACTL Foundation President Lively M. Wilson of Louisville, Kentucky has received \$25,000 worth of checks representing about 75 percent of the Fellows in Alabama.

“They are the first state to try to get 100 percent of their Fellows to contribute at least an hour’s worth of their time to the Foundation,” Wilson said.

Meanwhile, he has reported that the Foundation closed out the fiscal year ending June 30, 2003 with \$1,387,471 in net assets and unpaid pledges, representing an increase of more than \$50,000 from the previous year.

The growth was supported by contributions from Fellows amounting to \$162,323 and returns from stock market investments of \$32,641.

Grants during the year included \$20,000 to the National College of District Attorneys, \$20,000 to the National Criminal Defense College and a substantial contribution to the Access to Justice Committee. In addition, the Foundation continued its support of the Samuel E. Gates Award and the various awards for the National Moot Court Competition and the National Mock Trial Competition. ♦



RETIRING JUDGE DECRIES CURRENT SENTENCING GUIDELINES

Addressing the unfairness and cruelty he perceives in the current Federal Sentencing Guidelines, retiring Federal District Judge John S. Martin, Jr., FACTL of the Southern District of New York called on every member of the College to join in persuading the members of Congress that in our present sentencing system, “our resources are misspent, our punishment too severe, our sentences too long.”

A 1990 appointee of then president George H. W. Bush and a former United States Attorney and a highly regarded member of the bench, Judge Martin had announced his retirement as of the time he became eligible for senior status to protest the Guidelines.

Announcing that he did not intend to address his remarks, which he entitled *Cruel and Too Usual—Sentencing in the Federal Courts*, to the criminal lawyers in the audience, because that would be “preaching to the choir,” he expressed the hope that he could persuade those in the audience who are not criminal lawyers that they have to become involved in helping to change a system that imposes unconscionably long sentences on people who do not deserve them.

Addressing the proposition that sentences are too long, he stated, “[T]here are those who should be in jail for long periods of time and some who should never see the light of day outside prison. The problem with our current criminal sentencing system is that it does not draw distinctions between the serious offender who deserves the maximum possible sentence and others whose crimes are less serious or whose involvement is less substantial.”

Today, he pointed out, there are 151,000 prisoners in the federal system and approximately 70% of them are serving sentences of five years or more. 20% of those prisoners are serving sentences in excess of 15 years and 12% are serving sentences over 20 years. Yet only 3½% of those incarcerated in our federal penitentiaries have been convicted of murder, kidnapping or aggravated assault, which we normally think of as crimes that would warrant such severe sentences.

Giving several examples from his own experience of cases in which the prescribed sentence was inappropriate, cases that called for more discretion in sentencing, he pointed out that not only are judges limited in their ability to depart from the guidelines, but, moreover, that “this Department of Justice is doing everything in its power to see that judges are stripped of any power to depart below the guideline sentence when the judge finds the required sentence totally unjust.”

He went on to assert, “The perception that our sentences are too severe is not simply that of some group of liberal judges,” quoting from a letter from a judge in the South who described himself as a conservative who said, “When I was appointed by President Reagan in the Fall of 1985, I thought my biggest concern in sentencing would be to make sure that hard core criminals were not routinely given lenient sentences. I soon found out, however, that the guidelines, particularly in drug cases, are so favorable to the prosecution



**Judge
John S. Martin, Jr.**

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PRICHARD OUTLINES LEADERSHIP ADVOCACY

Much of leadership in fact is advocacy, an experienced leader in legal education and business told the Fellows at the Annual Meeting in Montreal. The commonality between leadership and advocacy is the challenge and the privilege to lead, to transcend one's individual talents and to try to create a greater sense of purpose, a collective sense, a sense of common cause, J. Robert S. Prichard said.

Former law professor, law school dean and university president and now president and chief executive officer of Torstar, one of the world's leading media and book publishing companies, Prichard addressed his remarks specifically to leadership in the legal profession. They ended with a challenge to the leadership the College exemplifies.

The following are excerpts from his presentation: "I have entitled my remarks, just 'Advocacy and Leadership.' You may think of them as very, very different, as advocacy on the one hand, the work of the individual litigator dedicated to the individual case, the individual client, ... versus the work ... of the manager, the administrator, the leader, trying to lead a collective cause and great collective purpose. But different as they may sound at the outset, I want to make the case to you this morning in a few minutes that the skills of the great advocate are the skills in fact essential to a great leader.

"What also makes the tasks [between leadership and advocacy] the same, is that it is the chance to lead in circumstances without abundant formal authority, where traditional command-and-control leadership won't take you very far....

"Independence, critical thinking, intellectual freedom, these are central to the University; they are central to newspapers; they are

central to the profession of law; they are central to most things you and I care about. But at the same time ... that independence of the individual is so important in all these callings of law ... it is also the case that a single professor or single journalist alone is not much of a force for good, because to be truly effective, they need to be part of a greater whole. And they need to accept, despite their independence, ... the collective's interest as a legitimate interest that transcends his or her own.

"And, so for me, the challenge of leadership, whether in the University, whether in the newspapers, whether in the profession of law, the challenge of leadership is simultaneously to celebrate and reinforce the independence, indeed the individuality of each of our colleagues and at the same time, create a commitment to a collective institutional purpose that transcends of the individual....

"You all face it all the time. You all face it as leaders from your law firms, which are so similar in so many ways to the institutions I describe. You face it in leading bar associa-



J. Robert S. Prichard

tions.... You face it in leading charitable and community organizations. You face it in leading political organizations. You face it whenever you chair an organization, chair a task force, chair a committee. All of these situations are fundamentally, I believe the same. They are all situations where you have an obligation to lead, but you have limited formal authority to lead and you have, if you are lucky, independent-minded colleagues,

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NOTABLE QUOTES FROM THE 2003 ANNUAL MEETING

INVOCATION

We pray for the serenity to ask ourselves hard questions, to continue the search for truth and justice, to celebrate both action and



**Lynne Kassie,
Quebec Province Chair**

passion, to find happiness and satisfaction in service to others and to be invested with dignity as we pursue new visions, new initiatives and new solutions. One of life's greatest achievements is to live up to one's opportunities, to make the best of one's resources.

One of the marks of true greatness is the ability to develop greatness in others. May we all strive to reach these goals.

Lynne D. Kassie, FACTL, Quebec Province Chair

♦ ♦ ♦

THE CONCEPT OF FRATERNITY (BROTHERHOOD)

The first article of the Universal Declaration of Human Rights proclaims all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in the spirit of brotherhood, and in French we say *esprit de fraternité*. The Constitutions of Canada and the United States are founded on precepts of individuality. They guarantee rights of life, liberty and the security of the

person in Canada, and life, liberty and the pursuit of happiness in the United States.... We all know about freedom and equality, but what is this brotherhood? Is it a legal concept? ... In the view of former Chief Justice Charles Gonthier of the Supreme Court of Canada, fraternity is simply the forgotten third element of democracy. It is the glue that binds liberty and equality to a civil society.... It is the forging element of a community. It advances goals of fairness, and equity, trust and security and brings an element of compassion and dedication to the goals of liberty and equality. It binds individuals who share similar values and goals, not only to their current neighbors, but also provides a sense of continuity with the past and the future.... Fraternity is the necessary adjunct of liberty and equality that imports these values into a community. To be free amongst equals means nothing outside of a community.... Communities exist in no small part because of a desire to belong to a family. Fraternity is an expression of brotherhood and sisterhood of shared interests and beliefs. Fraternity stands at the same level as liberty and equality and the pursuit of happiness in a community.... The result of this process, or the result to which we all aspire, is a better community.... When our current society comes across seemingly unsolvable patterns, such as youth violence in schools, or hate crimes, or racial violence against vulnerable groups, or



Gerald Tremblay

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NOTABLE QUOTES

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terrorism, it may be that part of the solution should involve an understanding of the balance between liberty, equality and fraternity. Liberty can only be enjoyed in its fullest form in a community that respects and cares for one another. Equality means nothing if it is not informed by the actual differences between people, which may require those in a position of power or advantage to take additional steps to assist those less advantaged. This is substantive equality. It is a democratic liberalism. It is a community. It is fraternity.... We have come a long way since the March on Washington, but with all of us ... fraternity can be a catalyst and a source of inspiration for making our society more human....

*Gerald Tremblay,
Mayor of the City of Montreal*

♦ ♦ ♦

MONTREAL'S DUAL HERITAGE OF COMMON LAW AND CIVIL LAW

The Anglo-American law tradition, with its founding principle and universal values is clearly the basis upon which the legal communities of *fifty-eight* of the states and three territories in ... [the United States and Canada combined] are founded. But as law schools and practitioners across Europe and Asia embrace civil law and common law together, and as a transnational institution in transactions of all kinds grows in importance, a greater number of future practitioners may well be called upon to nourish their knowledge of the two greatest legal systems in the world, and I hope Montreal will serve both as a center of excellence in this regard and as an open door on the world.

Gerald Tremblay, Mayor of the City of Montreal

♦ ♦ ♦

THE VIRTUE OF MONTREAL'S DUAL CULTURE

Now, the first thing I would like to emphasize, and you will hear a lot of French in this place, is the extraordinary beat of history. We are only two percent of the population of North America, yet in this place the French



Jean Charest

language and culture thrives. And it's not just a language that survives. Far from it.... [O]ur culture is shared with the world, whether it's the Cirque de Soleil, whether it's our movies. And that in itself is something we are extremely proud of.... We think it is very relevant to what the future of the world is about, what it

holds for us and what it holds for you.... But the great advantage it has given to us as citizens of North America—these two languages—and I believe to Canada, is to have two windows on the world. When I meet with young people in my office, students or grade school students who visit me, I always give them the same routine. I point to a window and I ask them to look out that window and to tell me, to describe what they see. And they describe what they see outside and then I bring them to the next window and I ask them to look outside and describe what they see, and they obviously describe things differently. And then the point I make is this: "You looked out two different windows, but you are looking at the same place; nothing has changed outside. Yet what you have described is different, and why is it different? Well it's very much like two languages and two cultures. It's the ability to see things differently,

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NOTABLE QUOTES

(Continued from page 13)

to understand them differently and in the end better understand, to see further and to see more things, and it enriches our lives. It has enriched the life of Quebec and of Canada.” ... I am the leader of a government whose ultimate responsibility is to protect this language and culture and to allow it to thrive, but it has also benefited our people in ways that we are not able to measure. In the end, I think it gives us more freedom, freedom to be able to see further. And that’s one of the great assets, one of the great, great parts of the story of Quebec and of Canada. We are extremely proud of this.

Jean Charest, Premier of Quebec

♦ ♦ ♦

A STUDENT’S VIEW OF NATIONAL MOOT COURT COMPETITION

When I enrolled in the moot court program my second year at Wayne State University Law School, I hoped to improve my legal writing and oral advocacy skills. However, I learned more than I ever expected. And this was due in



Dana Bennett

large part to the numerous attorneys, judges and professors who volunteered their valuable time in order to judge the competitions. The participants greatly appreciated those who willingly offered their guidance, their insights and their keen understanding of the law. During my time in the program, I encoun-

tered countless lawyers who meticulously studied and researched the case law, so as to make the moot court experience as real as possible. Frequently, at the close of oral arguments, the judges would take the time to critique and analyze the participants—their legal arguments as well as their speaking style. And this not only helped us hone our advocacy skills, but it also made us feel we were part of the legal community, having a real dialogue about the practice of law. Additionally, participants met a wide variety of legal minds, who demonstrated the vast opportunities awaiting an individual with a law degree and a strong work ethic. As a representative of the hundreds of law students who participated in the 2002-2003 national competition, I’d like to thank the College for sponsoring such an extraordinary event. Through your on-going sponsorship of the National Moot Court Competition, future trial lawyers will continue to gain a deeper appreciation of the law. Thank you for allowing me to have such a meaningful and educational experience, and thank you for this award.

Dana Bennett, accepting the Fulton W. Haight Award as the Best Oral Advocate, National Moot Court Competition

♦ ♦ ♦

ON THE ROLE OF INTERNATIONAL CRIMINAL TRIBUNALS

Although, I spent most of my professional career in Toronto, I grew up here [in Montreal]. I went to law school here, and I experienced here first-hand, the implementation of the War Measures Act, in the Fall of 1970, which brought the army into the streets of Montreal in response to the threat of an apprehended insurrection provoked by the criminal act of a small, but lethal, terrorist group. These events have fashioned more than anything in my legal education, my concerns with power, with abuse of power and ultimately, with the fragility of all

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BON MOTS FROM ANNUAL MEETING

THE PROGRAM AT THE FIFTY-THIRD ANNUAL MEETING OF THE COLLEGE WAS LACED WITH AN EXTRAORDINARY AMOUNT OF HUMOR, SO MUCH SO THAT WE HAVE PRESERVED SOME OF THE BEST OF THE BON MOTS THAT FELL FROM THE LIPS OF VARIOUS SPEAKERS.

♦ ♦ ♦

My wife does remind me of the humility of the office. A few days after my election to the great position of Premier of Quebec, she asked me to take the garbage out. My immediate reply was to say to her, "Honey, do you know who you are talking to?" She said, "Yes, I do. I am talking to the guy who is going to bring the garbage out."

The Honourable Jean Charest, Premier of Quebec

♦ ♦ ♦

[M]y dad had played hockey ... in the American League ... and his concern when we were growing up ... was that we would want to grow up and imitate him and want to play hockey. And he of course wanted us to go to school and study instead. And so, ... and I always give this as a lesson of judgment, [he said] to my brother and me, "Jean, Robert, don't go into hockey. There's no money in hockey." So here I am.

The Honourable Jean Charest, Premier of Quebec

♦ ♦ ♦

Finally, I want to say a word to David Scott, who is an extraordinarily well-known lawyer and someone who we are very proud of, who I understand who will

be the first Canadian to be taking up the presidency ... of your Association. I think that you should be very proud that you have upgraded this year.

The Honourable Jean Charest, Premier of Quebec

♦ ♦ ♦

Premier Charest cannot remain with us this morning because of his schedule. We appreciate enormously your participation in our program this morning, notwithstanding the upgrade comment.

Then College President, Warren B. Lightfoot

♦ ♦ ♦

One of my first experiences sitting in the courtroom was a gentlemen who walked up to the Bar on a plea, and they asked him ... , "Do you want to plead guilty and do you have a lawyer?" He replied, "I have no lawyer. I want to plead guilty." The

Crown Attorney ... goes through the file. They are never totally sure whether the person has a record or not. He was talking to him in French. "Do you have a record?" As you could see the gentlemen couldn't understand the expression, and finally the Judge pipes up and says, "Have you ever been in court before?" And he looks at the judge and says, "No, your Honor. It's the first time I have ever been caught." Then I knew, "This guy needs a lawyer."

The Honourable Jean Charest, Premier of Quebec



Charest & Lightfoot

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ONE HUNDRED TWENTY-THREE FELLOWS INDUCTED AT MONTREAL MEETING

ALABAMA: Finis St. John IV, Cullman
ARIZONA: John D. Everroad, Phoenix,
Peter G. Kline, Tempe, Anthony J.
Palumbo, Phoenix **ARKANSAS:** Rex M.
Terry, Fort Smith **NORTHERN CALIFOR-**
NIA: Howard Janssen, Lafayette, John A.
McGuinn, San Francisco **SOUTHERN**
CALIFORNIA: Greg Hulbert, Long Beach
COLORADO: Ann B. Frick, Charles
Goldberg, Pamela Robillard Mackey and
John Mosby, Denver **DELAWARE:**
Kathleen Jennings-Hostetter,
Wilmington **DISTRICT OF COLUMBIA:**
Roger M. Adelman, Sanford (Sandy) K.
Ain, Barry Coburn, David J. Curtin,
Michele A. Roberts, Douglas K.
Spaulding, Robert P. Trout and John B.
Williams, Washington **GEORGIA:** Jesse G.
Bowles, III, Cuthbert, Ralph Knowles,
Atlanta, Marc T. Treadwell, Macon
IDAHO: Donald J. Farley, Boise, D.
Fredrick Hoopes, Idaho Falls, Patricia
(Pat) M. Olsson, Boise, Michael E.
Ramsden, Coeur d'Alene **ILLINOIS:** Will-

iam J. Brinkmann, Champaign, R. Bruce
Duffield, Chicago, Michael F. Henrick,
Waukegan, James C. Kearns, Urbana,
Rex K. Linder, Peoria, Stephen R.
Patton, Chicago **IOWA:** Bruce L. Braley,
Waterloo, Phil C. Redenbaugh, Storm
Lake, Leon F. Spies, Iowa City **KEN-**
TUCKY: Samuel E. Davies, Barbourville
LOUISIANA: Charles F. Gay, Jr., New
Orleans **MARYLAND:** Martin S. Himeles,
Jr., Baltimore, Brian J. Nash, Towson
MASSACHUSETTS: Daniel E. Callahan,
Lowell, John G. Fabiano, Boston, Jef-
frey L. McCormick, Springfield, Bruce
A. Singal, Boston **MICHIGAN:** James P.
Feeney, Bloomfield Hills, David R.
Getto, Southfield, Walter P. Griffin,
Flint, David M. Hayes, Detroit, E.
Thomas McCarthy, Jr., Grand Rapids,
Stephen D. McGraw, Detroit, William F.
Mills, Grand Rapids **MINNESOTA:** An-
drew S. Birrell, Alan G. Carlson, Alan
C. Eidsness, Daniel Scott, William R.
Sieben, Minneapolis **MISSISSIPPI:** Donald



Each new Fellow was announced as he or she approached the induction ceremony at the Annual Meeting in Montreal. The inductees and their spouses or guests were honored at both a special breakfast and a luncheon with Past Presidents, Regents and State Chairs in attendance.

NEW INDUCTEES

(Continued from page 16)

C. Dornan, Jr., Biloxi, Tim C. Holleman, Gulfport, Mildred M. Morris, Jackson **MISSOURI**: Michael J. Patton, Springfield, John R. Phillips, Kansas City **MONTANA**: Robert James, Great Falls **NEVADA**: Niels L. Pearson, Las Vegas **NEW JERSEY**: David J. Sheehan, Newark **NEW MEXICO**: Steven L. Bell, Roswell, Terry R. Guebert, Albuquerque **DOWNSTATE NEW YORK**: Peter T. Crean and Herbert M. Wachtell, New York **UPSTATE NEW YORK**: Mae D'Agostino, Menands, David S. Howe and Patricia A. Lynn-Ford, Syracuse, John T. Maloney, Albany, George F. Mould, DeWitt, Victor Alan Oliveri, Buffalo **NORTH CAROLINA**: Edward T. Hinson, Jr., Charlotte, Sally A. Lawing and Reid L. Phillips, Greensboro, Richard D. Stephens, Charlotte **NORTH DAKOTA**: Ronald F. Fischer, Grand Forks, David S. Maring, Bismarck **OHIO**: Susan Blasik-Miller, Dayton, Peter R. Casey III, Toledo, Patrick M. McLaughlin, Cleveland **OKLAHOMA**: J. William Conger, Oklahoma City, Bradley A. Gungoll, Enid **OREGON**: Mark R. Bocci, Lake Oswego, Donald B. Bowerman, Oregon City, Don Corson, Eugene, Thomas V. Dulcich, Robert M. Keating, Dan Skeritt and Robert C. Weaver, Jr., Portland **PENNSYLVANIA**: Joseph C. Crawford, Philadelphia, Robert J. Donatoni, West Chester, Nancy H. Fullam, Adrian R. King, Gerald Austin McHugh and Robert Ross, Philadelphia, Daniel F. Ryan, III, Plymouth Meeting **RHODE ISLAND**: Mark L. Smith, North Smithfield **SOUTH CAROLINA**: Manton M. Grier and Susan P. McWilliams, Columbia **SOUTH DAKOTA**: James E. McMahon, Sioux Falls **TENNESSEE**: Darrell G. Townsend, Nashville **TEXAS**: James R. Leahy, Houston **VIRGINIA**: Henry W. McLaughlin, Richmond, Alan B. Rashkind, Norfolk **WASHINGTON**: Michael H. Runyan, Seattle **ALBERTA**:

Mona T. Duckett, Edmonton, Frank Foran, Q. C., David R. Haigh, Q. C., and Bradley Nemetz, Q. C., Calgary **BRITISH COLUMBIA**: Eric J. Harris, Q. C., Vancouver **ONTARIO**: Barbara A. McIsaac, Q. C., and Don Rasmussen, Ottawa, Christopher G. Riggs, Q. C., Toronto **QUEBEC**: Pierre Beaudoin, Quebec, Sophie Bourque and Michel Green, Montreal, Michel Jolin, Quebec, Gordon Kugler and Robert W. Mason, Montreal.

Gerald Austin McHugh, of Litvin, Blumberg, Matusow & Young, Philadelphia, gave the response on the behalf of the new inductees.



“[E]veryone here stands on the shoulders of those who came before us. Not just earlier members of the College, but generations of lawyers, dating back centuries, who created our tradition. We are heirs to a magnificent system of justice.... We did not create it. We cannot take credit for it. It is a remarkable system—one of inquiry—of advocacy—the clash of ideas—which we believe results in justice for our clients. It is ours to protect and validate, or to discredit and squander, depending upon the way in which we practice our profession.” ♦



NEW REGENTS ELECTED

Raymond L. Brown of Pascagoula, Mississippi, Charles H. Dick, Jr. of San Diego and Thomas H. Tongue of Portland, Oregon were elected as new Regents at the Annual Meeting in Montreal.

Brown, former Mississippi State Chair, represents Arkansas, Louisiana, Mississippi and Texas. In addition to several other honors, he is a past president of the Mississippi Bar Association. A graduate of the University of Mississippi, Brown received his legal education at the University of Maryland and Ole Miss where he was awarded his J.D. in 1962. He clerked for U.S. Supreme Court Justice Tom Clark and played professional football for three years with the Baltimore Colts before beginning his law career. He and his wife Lyn have three children and eight grandchildren.

Dick, a Fellow since 1994 and former Southern California Committee Chair, represents Arizona, Hawaii and Southern California. He received his local bar's highest award for professionalism, The Daniel T. Broderick Award, in 2003. A

graduate of the University of Iowa, he received his law degree from the university's College of Law. A retired captain in the Judge Advocate General's Corps of the U.S. Naval Reserve, Dick's hobbies include, music, gardening and reading.

Tongue, a Fellow since 1993 and former Oregon State Chair, represents the Northwest Region of the College, which includes, Oregon, Washington, Alaska, Montana, Idaho, and the Western Provinces of Canada, British Columbia and Alberta. A highly respected fourth generation Oregon attorney, Tongue had received the Professionalism Award from the Multnomah County Bar Association. A graduate of the University of Oregon, he received his law degree from the University of Wisconsin. His hobbies include fly fishing, golf and hiking. He has been married to Dr. Andrea Tongue, a pediatric ophthalmologist, for thirty two years and they have two children, son Thomas M. Tongue, a fifth generation Portland lawyer, and daughter Kathryn Watts, a Chicago lawyer who recently clerked for Justice Stevens of the U.S. Supreme Court. ♦

GATES AWARD NOMINEES SOUGHT

Nominations for the Samuel E. Gates Litigation Award are being sought, urges Gates Committee Chair John H. Tucker of Tulsa, Oklahoma.

The award, which is given only in exceptional cases and not on an annual basis, honors a lawyer who has made a significant contribution to the litigation process. The

College created it in 1980 in honor of Gates, a New York City Fellow who was President-Elect of the College but who died before he was able to take office in 1979.

The award was last given in 2003 to William R. Jones, Jr., FACTL, of Phoenix, Arizona. ♦



SENTENCING GUIDELINES

(Continued from page 10)

that I must devote much of my attention to trying not to give harsh sentences where none is required.”

Pointing out the population upon whom we are imposing these harsh and cruel sentences—of the 151,000 prisoners in our federal prisons today, it is fair to estimate that between 65 and 70% are minorities—he speculated that, although he does not believe that we have a consciously racist criminal justice system, because these sentences are

“I soon found out ... that the guidelines ... are so favorable to the prosecution that I must devote much of my attention to trying not to give harsh sentences where none is required.”

imposed on minorities, they do not cause the majority community the concern they would feel if the defendants were people with whom we identified in a meaningful way. “It is not,” he remarked, “that we are consciously trying to imprison minorities. We simply do not care enough about the problems that minorities face.”

On the subject of misspent resources, he described a federal women’s prison with no prison walls, no barbed wire, nothing that would prevent any of them from leaving the camp that was nothing more than “a warehouse for women, many of whom were mothers with young children. I asked myself what conceivable good is it doing for society to have most of these women warehoused here while their children are raised in foster homes or by distant relatives. We are just making sure that we repeat the cycle that will lead their children to spend a good part of their lives in our prison system.”

He went on to point to a Rand Corporation study that concluded that spending a

fixed amount of money on drug addiction programs for heavy users would reduce cocaine consumption by almost four times the reduction that would result from spending the same amount of money putting more police and drug enforcement agents on the street and almost eight times as much as spending that sum on incarceration of drug offenders for longer periods of time. “Unfortunately,” he observed, “it is easier to run for Congress by saying you voted for harsher mandatory sentences for drug dealers than by saying you voted for to allocate more money for drug addiction programs.”

In 1978, he pointed out, there were 20,000 people in the federal system at a cost of \$308 million. In 2003, there are 151,000 people in federal prison at a cost of \$4.6 billion. 40% of the people in federal prison are there because of narcotics related offenses, but statistics show that there has been no diminution in the amount of narcotics addiction or narcotics being distributed in this country.

Furthermore, he pointed out, our current system, which fails to distinguish between major and minor violators, gives the law enforcement community the ability to brag about its success in prosecuting narcotics violators. “They can testify before Congress and say look, there are 30,000 people who are in federal prison for sentences of over 10 years because of their narcotics violations. What is not said is that the incarceration of 95% of those individuals will have no meaningful impact of the amount of drugs distributed because those individuals are low level members of narcotics distribution organizations who can be immediately replaced upon their arrest.... Drug agents can create impressive statistics by arresting low level drug dealers. It takes a much greater law enforcement effort to prosecute major violators who do not operate openly on the streets. If we simply limited the harsh penalties to major violators, we would be providing the Drug Enforcement Agency with an incentive to concentrate their efforts on major violators

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SENTENCING GUIDELINES

(Continued from page 19)

and we would have a way of measuring the success of law enforcement in the war on drugs.”

Declaring himself not opposed to the concept of sentencing guidelines to encourage uniformity in sentencing in like cases, he disagreed with recent pronouncements by the Department of Justice that it was the intent of Congress in enacting the sentencing guidelines to do away with judicial discretion. “Congress recognized that the district judge should have the power to depart from the guideline sentence when the judge ‘finds that there exists an aggravating or mitigating circumstance of a kind or to a degree not adequately taken into consideration by the Sentencing Commission in formulating the guidelines.’”

“The problems that have arisen,” he went on to say, “are twofold. One, in many cases, Congress adopted excessively harsh mandatory minimum sentences, which give the judge no discretion in imposing a sentence. Two, the Commission has felt compelled to fix the guideline sentences to make them consistent with the lengthy mandatory minimums. Thus, since the mandatory minimums are too high the guidelines are also too high. While these problems primarily relate to drug sentences, once drug sentences are set at a high range, there is a tendency to increase the sentences in white collar cases to avoid the perception of a double standard.”

Tellingly, since the guidelines became effective in 1989, the number of people in federal prisons has grown from 47,000 to 151,000.

He went on to point out that whenever the Sentencing Commission acts to address these problems, Congress threatens to intervene. “This highlights a major problem that I think you as citizens can help address,” he observed. “The Sentencing Commission was to be an expert body that could establish a rational sentencing system. However, Congress has attempted to micro-

manage the work of the Commission. Most distressing in my view is the fact that last Spring Congress ordered the Commission to adopt provisions that would reduce the instances in which judges depart below the guideline range.... Our current age of sound bite politics will never make it palatable for a member of Congress to vote to reduce the penalty for any crime and thus face an ad from an opponent stating Congressman X is soft on crime. However, we should be able to persuade members of Congress that the question of sentencing should be left in the hands of experts and that judges should have the final say as to the appropriate sentence in an individual case.”

Encouraging the participation of every member of the College, he asserted, “This can only happen if each of you gets involved in this process and makes known to your representative that we can not, as a nation committed to justice, tolerate the injustice that is taking place every day in our federal courts.... [A]nother report which simply condemns our current system will have little effect unless every member of this distinguished organization becomes active in attempting to persuade the members of Congress that in our present sentencing system “our resources are mispent, our punishment too severe, our sentences too long.”

Martin closed with a quote from Justice Anthony Kennedy’s speech to the American Bar Association on sentencing. “The subject is the concern and responsibility of every member of our profession and of every citizen. The Gospels’ promise of mitigation at judgment if one of your fellow citizens can say, ‘I was in prison, and ye came unto me,’ does not contain an exemption for civil practitioners, or transactional lawyers, or for any other citizen. And, ... the energies and diverse talents of the entire Bar are needed to address this matter.”

[The entire text of Judge Martin’s address is posted on the College website, www.actl.com.] ♦

GENERAL COMMITTEE ACTIVITIES COMPENDIUM AS OF FEBRUARY 17, 2004

COMMITTEE	REGENT/CHAIR	MANDATE	STATUS
Access to Justice and Legal Services	Regent Dennis R. Suplee Chair Sylvia H. Walbolt	To develop a program that would enable the College to provide a leadership role in legal services to those unable to afford them, to monitor activities of the state committees in the field of pro bono activities to ensure that they are consistent with the purpose of the College.	<ul style="list-style-type: none"> Prepared description of Committee's activities appropriate for circulation to legal aid organizations in effort to obtain referrals of potential pro bono cases to be place with Fellows of the College. Obtained approval of Board to use this memo in Oregon as a pilot program, under the auspices of the Oregon Access Committee. Placed several cases, very expeditiously, under the newly approved Board guidelines. The Canadian initiative continues to move forward. Coordinating with Teaching of Trial and Appellate Advocacy Committee to present seminars to public interest lawyers. Increasing State Committees' access activities focussing on non-achieving States. Committee will be exploring potential use of Pro Bono Net as a referral mechanism. Locating funding to provide staff to assist in finding cases.
Adjunct State	Regent John L. Cooper Chair Richard P. Campbell	To consider and make recommendations with respect to nominations of lawyers whose trial experience and trial activities are not known to the State committee of the particular state.	<ul style="list-style-type: none"> The Committee has a list of 22 names of potentially suitable candidates for Fellowship from locations across the USA. Due to the number of candidates the group was divided into 11 candidates each, Phase 1 and Phase 2. The committee expects work on Phase 1 candidates to be complete before the Spring 2004 Meeting. Work on Phase 2 candidates is expected before the 2004 Annual Meeting. The committee will evaluate means and methods for relevant and useful polling of the Fellows of the College regarding any candidates forwarded to the Board of Regents for evaluation and action.
Admission to Fellowship	Regent Thomas H. Tongue Chair John S. Siffert	To study and make recommendations with reference to the standards of the College for admission to Fellowship, to investigate and determine whether those standards are properly administered in each of the several states; to develop and suggest procedures to be followed by the State Committees in proposing nominations.	<ul style="list-style-type: none"> Engaged in efforts to stimulate diversity of candidates for Fellowship. Effort to spread Committee membership over the various regions. The Committee has divided its members into assigned territories represented by the Regions of the College. The objective is to have these Committee representatives work with State and Province Chairs to encourage outreach for qualified women and minority candidates as well as candidates from non-traditional areas of practice. A possible flaw in the Poll process as it pertains to the Regents' decision-making, is under discussion and they are hoping to make some recommendations to the Regents. Some materials and sources for identifying "watch list" candidates have been: <ul style="list-style-type: none"> the American Lawyers Top 40 Under 40 district attorneys offices, Legal Aid societies, and legal services groups. State and Province Chairs have been urged to use the Committee nomination process to exhaust the potential for suitable candidates. The Committee has also debated: <ul style="list-style-type: none"> improving the website by identifying Fellows, Committee Chairs and members, etc., and expanding website access to third parties greater and more effective publication of the success enjoyed by the College of its programs greater participation of Fellows in law school clinical programs, perhaps through the development of advisory programs to be the responsibility of State and Province Chairs and local Fellows.
Alternatives for Dispute Resolution	Regent Mikel L. Stout Chair James D. Zirin	To study emerging techniques of alternative means of dispute resolution, including mediation, conciliation, arbitration, mini-trials, neighborhood justice centers and multi-door court houses, and keep the Fellows informed as to important new developments.	<ul style="list-style-type: none"> Has prepared a mediation practice questionnaire and circulated it to State and Province Committees. Approximately 25 responses have been received. Committee has sought Executive Committee approval to post the completed questionnaires on the ACTL Website – approval is pending. Committee is considering what use to make of the survey results. Nancy Gellman is drafting a summary of the responses which they hope to post on the ACTL Website once it is approved by the committee at the Phoenix Meeting.
Attorney-Client Relationships	Regent Albert D. Brault Chair Chilton Davis Varner	To examine and keep abreast of developments in the field and particularly as they may relate to the traditional privilege of communications between attorney and client and maintenance of client confidences.	<ul style="list-style-type: none"> Conducting a survey of the States to determine what regime is in place with respect to amended Model Rule 1.6 with a view to utilizing the resulting inventory to develop a plan for persuading uncommitted States not to adopt the amended Model Rule 1.6 regime and for persuading those which have adopted it, to rescind it. Prepared materials for any College member to use in opposing adoption of the newly amended Model Rules. These will be made available to members of the Committee and to State Chairs in electronic form. Committee is preparing an outline of a white paper on erosion of the attorney-client privilege in the civil context, to be a companion to the College's previous paper on Erosion of the Attorney-Client Privilege in Federal Criminal Investigations.
Award for Courageous Advocacy	Regent John J. Dalton Chair Trudie Ross Hamilton	To receive and investigate recommendations and information relative to outstanding courage demonstrated by trial lawyers in unpopular or difficult causes, and where appropriate to recommend an award.	<ul style="list-style-type: none"> The Committee will make its recommendation for the next recipient to receive the Award for Courageous Advocacy at the Board of Regents Meeting in Phoenix this spring, 2004. The Committee has two candidates under active consideration and two further candidates who are in the preliminary stages of investigation.
Canada-United States	Regent Thomas H. Tongue Chair Stephen D. Marcus	To investigate areas of common interest between Canada and the United States and to plan for and monitor activities in these areas of common concern.	<ul style="list-style-type: none"> Six projects are the subject of current discussion: <ul style="list-style-type: none"> "Canadianization" of Code of Pretrial Conduct – aiming for completion at Phoenix Meeting. Updating of Code of Trial Conduct Identifying protocol for reciprocal enforcement of judgments Promotion of cross-border judicial cooperation in commercial and insolvency matters Review of proposed legislation relating to money laundering in Canada and the USA Potential <i>pro hac vice</i> role for Canada and the USA occasional appearances. Attorney/client privilege issues in Hemispheric Security Legislation.
Canadian Competitions	Regent Brian P. Crosby Chair Michel Décary	To monitor the operation of the Sopinka Cup National Trial Competition and the Gale Cup, a Canadian national moot court competition.	<ul style="list-style-type: none"> Monitoring, auditing and judging of and at the Canadian Competitions: <ul style="list-style-type: none"> Sopinka Cup national trial competition Gale Cup national moot court competition.
Communications	Regent Charles H. Dick, Jr. Chair David O. Larson	To provide advice and assistance with respect to the publications of the College, including keeping abreast of all activities of the general and special committees.	<ul style="list-style-type: none"> Collects materials; edits, assembles and distributes the <i>Bulletin</i>. Edits papers presented to the Executive Committee for publication by General Committees of the College. Three are currently assigned to editors. The Website Subcommittee has been reactivated. This is a priority item. Would like to implement upgrades during 2004 summer. The Ad Hoc Committee on Publications—see Ad Hoc Committees at the end of this compendium.


GENERAL COMMITTEE ACTIVITIES COMPENDIUM AS OF FEBRUARY 17, 2004

Complex Litigation	Regent John L. Cooper Chair Lawrence T. Hoyle, Jr.	To study and monitor procedures in complex and multi-district litigation and make proposals in connection therewith; to prepare and disseminate written materials relating thereto.	<ul style="list-style-type: none"> The final version of the Manual on Complex Litigation, subject to minor editing and collecting "forms" for the appendix, has been submitted to some non-College mass tort experts who have agreed to review and comment on the work. Subject to receiving those comments, the current draft is ready to submit to the Executive Committee. Committee is considering a manual for uninitiated counsel and the judiciary with respect to handling of patent litigation as their next project. Review of the outline will take place at 2004 Spring Meeting at which time a decision will be made as to whether or not to proceed.
Federal Civil Procedure	Regent Brian B. Crosby Chair Robert L. Byman	To monitor the operation of Federal Civil Procedure and other federal civil procedural developments generally, to determine the adequacy of the operation of the rules and procedures in federal civil cases, to evaluate proposed changes, and to make recommendations with regard to these matters.	<ul style="list-style-type: none"> Compendium of offers of judgment regimes in place in the 50 States and District of Columbia has been completed and has been submitted to the Executive Committee for approval and to the Communications Committee for editorial review. A similar study of electronic discovery regimes in place in the States and the District of Columbia is also underway. The Committee has delegated to Chris Kitchel the task of assessing whether Rule 68 offers of judgment might be amended to make it more robust and meaningful, with a report schedule for the Spring meeting. With respect to electronic discovery, the Committee is monitoring the ongoing discussions in the Judicial Conference Advisory Committee with a view to commenting on any future proposal for change. The Committee will have a representative at the Conference on Electronic Discovery on February 20-21, 2004, and a report will be made to the Committee for discussion at the 2004 Spring Meeting. In addition to that report, we anticipate a report on electronic discovery practice under the Texas Electronic Discovery Rules. The Committee is considering the preliminary draft of proposed amendments to the Rules promulgated by the Judicial Conference and did not observe any areas which warranted the Committee's input.
Federal Criminal Procedure	Regent Patricia C. Bobb Chair Robert W. Tarun	To monitor the operation of the Federal Criminal Procedure and other federal criminal procedural developments generally, to determine the adequacy of the operation of the rules and procedures in federal criminal cases, to evaluate proposed changes, and to make recommendations with regard to these matters.	<ul style="list-style-type: none"> Supporting the National Criminal Defence College as represented by a grant of \$20,000 from the Foundation of the College. Paper on disclosure of favourable information under FR of CP 11 & 16 (the Brady paper) to be printed in the American Criminal Law Review. The paper contributed to by the Committee on the "Erosion of Attorney Client Privilege" has been published in the Duquesne Law Review. Ongoing projects include: <ul style="list-style-type: none"> recommendations for revisions to corporate criminal liability a study of issues and problems associated with self-representation a proposal for uniform application of FR of CP 17(c) re obtaining documents pretrial for use in federal criminal cases a proposal for mandatory written jury questionnaires as part of the <i>voir dire</i> process in federal criminal trials.
Federal Rules of Evidence	Regent Sharon M. Woods Chair John J. Kenney	To monitor the operation of the Federal Rules of Evidence, to determine their adequate operation and to study and make recommendations with regard to desirable changes.	<ul style="list-style-type: none"> At the present time, the Standing Committee on Rules of Practice has not proposed any amendments to the Federal Rules of Evidence for comment. The next occasion when it is likely to do this is in August of 2004. The Advisory Committee on the Evidence Rules met in Washington on November 13th and has proposed amendments to Rules 404(a), 410, 606(b), 609(a), 609(a)(2) to the Standing Committee. The Standing Committee is expected to address these proposed amendments at its meeting in the Spring of 2004. Amendments that are approved at that time will be put out for public comment in August/2004. The Committee continues to consider the feasibility of a manual or booklet on "Best Practices" in the Trial Court. The Committee is participating in a draft Report on the U.S. Sentencing Guidelines. Commented successfully on Rule 804(b)(3) of the Federal Rules of Evidence re standards for the admissibility of third party out of court declarations against penal interest for inculpatory purposes, arguing <i>against</i> the requirement for corroboration in civil cases. Having published its paper on Unpublished and Non-Circuit Binding Opinions, the Committee will monitor the progress of a new rule proposed by the Advisory Committee on Appellate Rules requiring publication and freedom to cite opinions of circuit courts. The Advisory Committee has proposed to add a Federal Rule of Appellate Procedure Rule 32.1 that will require that all opinions of the Circuit Courts be published and that parties be free to cite them. Bill Hangley, former Chair and a current member of the Committee, was scheduled to testify on behalf of the College on January 26 in Washington, DC at a Public Hearing on the proposed rule.
Finance & Compensation	no Regent Liaison Chair James W. Morris, III	To handle the finances of the College and the wages, salaries and other benefits to its employees.	<ul style="list-style-type: none"> Ongoing management.
Samuel E. Gates Litigation Award	Regent Mikel L. Stout Chair John H. Tucker	To honor a lawyer or judge who has made a significant contribution to the improvement of the litigation process.	<ul style="list-style-type: none"> The Samuel E. Gates Award will be presented to Professor Garry Watson of Osgoode Hall Law School at the Spring meeting of the College in Phoenix. The Committee has the names of several nominees for future awards under active consideration. Further nominations have been solicited from the chairman of each state committee.
Emil Gumpert Award	Regent Joan A. Lukey Chair Joseph D. Steinfield	The Board of the American College of Trial lawyers is in the process of changing the mission of this committee that was formed more than 25 years ago. The original objective of the committee, which was to foster and encourage law schools to teach advocacy, has been principally satisfied. The Board therefore will not be giving a monetary award to any law school in the future. The committee's new mission will be re-formulated with the assistance of the committee and announced by the Board in the near future.	<ul style="list-style-type: none"> The Committee has developed a proposed mission that has the overwhelming support of the committee members. The Committee submitted that document to the Executive Committee on January 13, 2004. The Executive Committee will recommend to the Board of Regents its acceptance at the 2004 Spring Meeting.
Honorary Fellowship	no Regent Liaison Chair Ralph I. Lancaster	To make recommendations to the Board of Regents with respect to the election of Honorary Fellows.	<ul style="list-style-type: none"> The Committee is deliberating on the question of future Honorary Fellowships. The Committee will make a recommendation for the next Honorary Fellowship to be presented at the 2004 Annual Meeting.

GENERAL COMMITTEE ACTIVITIES COMPENDIUM AS OF FEBRUARY 17, 2004

International	Regent Brian O'Neill Chair Philip A. Robbins	To advance the rule of law abroad by the encouragement of independent advocacy particularly in those nations recently emerging from despotic pasts.	<ul style="list-style-type: none"> The Committee's Report on Military Tribunals is being considered for publication, beyond existing circulation, in a suitable legal periodical. The Committee will continue to monitor the issues raised in this report. Report on the International Criminal Court has been submitted to the College office in three versions: (a) brief summary for the Bulletin; (b) complete report for inclusion on the ACTL Website; and (c) a shorter version of the complete report which the Committee has recommended be mailed to members of the College and other selected individuals. Awaiting the College's review and decision. Under consideration is a draft report on civil remedies available for victims of terrorism. Statutory analysis and case authorities are included and would be of value in analyzing avenues for compensation. The Committee, assuming approval, would post on the website and seek other appropriate vehicles for publications. The Committee is monitoring the development of a Hague Convention on extra-territorial enforcement of judgments. The Committee is monitoring the Department of Treasury action to restrict payment of legal fees to lawyers who have been engaged to defend Bosnian war crimes trials. The Committee is monitoring Belgium's developments with respect to its purported exercise of "universal jurisdiction," particularly as it relates to allegations of criminality against US government officials. <p>A synopsis is being prepared of the Committee's report on Claims by Victims of Terrorism for inclusion in the Bulletin, with a recommendation that the entire report be posted on the ACTL Website.</p>
Investment	no Regent Liaison Chair Michael A. Cooper	To receive and review reports from the College's fund managers and to make recommendations to the Board of Regents on investment policy.	<ul style="list-style-type: none"> Ongoing management.
Judiciary	Regent Albert D. Brault Chair D. Dudley Oldham	To identify and seek to ameliorate problems of the Federal and State Judiciary which hinder the attraction and retention of highly qualified judges, and to maintain liaison and cooperate with other agencies seeking to improve the Judiciary, Federal and State, and to inform the Fellows of the College thereof.	<ul style="list-style-type: none"> The Committee is actively engaged in the revision and expansion of a white paper on judicial independence with focus, <i>inter alia</i>, on judicial selection, judicial election, campaigning, tenure, compensation, funding of the judicial branch, etc. The Committee is also undertaking a review of the current 1990 Model Code of Judicial Conduct for the purpose of recommending suggested modifications to the Code so that the College may be heard on the subject at scheduled hearings.
Legal Ethics	Regent John J. Dalton Chair Alan T. Radnor	To keep abreast of developments with respect to the Code of Professional Responsibility and to monitor the Code of Trial Conduct and make suggestions from time to time for its revision; to investigate, on behalf of the Regents of the College, the censure, expulsion or discipline of Fellows.	<ul style="list-style-type: none"> The Committee has received approval of the Executive Committee for its Trial Ethics Teaching Program. The program is being edited by the communications Committee. The Committee is editing the ACTL Code of Trial Conduct Teaching Manual so as to make it available to State and Province Committees for use as a teaching aid. A draft for consideration by the Executive Committee will be submitted at the 2004 Spring Meeting.
National College of District Attorneys	Regent Edward W. Mullins, Jr. Chair Harry L. Shorstein	To represent the interests of the College in the training of public prosecutors.	<ul style="list-style-type: none"> Continue to send Fellows to lecture at NCDA courses? Mixed reviews last year. Should the topics remain ethics and professionalism? Any other ways that we can accomplish our goals of expanding the influence of the College? What about the grant of \$20,000 this year? It is under consideration by the Foundation. The Committee continues to urge the Board of Regents and the Foundation to maintain its support for the College. Efforts continue to be made to coordinate and improve the relationships between the two Colleges and to make Fellows available to present at NCDA courses.
National Moot Court Competition	Regent Gregory P. Joseph Chair Paul C. Saunders	To monitor the National Moot Court Competition; to assist the Association of the Bar of the City of New York in its administration; to assist in the recruitment of Fellows to serve as judges at the various levels.	<ul style="list-style-type: none"> The Committee is in touch with the Association of the Bar of the City of New York, specifically the Chair and Coordinator of the Moot Court event in anticipation of the Competition in February. In addition, the Committee is working toward the establishment of Regional awards and the encouragement of participation by local Fellows. The Committee is continuing to explore ways to encourage other schools to participate in the Competition.
National Trial Competition	Regent Charles H. Dick, Jr. Chair Hon. Phillip R. Garrison	To monitor the National Trial Competition; to assist in its administration and in the recruitment of Fellows to serve as judges.	<ul style="list-style-type: none"> The Committee will again contribute to the organization and execution of the National Trial Competition by providing Committee members to preside as judges and jurors during the preliminary quarter finals, the semi-finals and the final rounds of the final event to be held year in Austin TX March 24-27, 2004. In addition, the Committee is working to encourage Fellows to assist with judging at the regional competition and has further suggested that State Chairs attending the Workshops be reminded that they should be encouraged to volunteer to participate in the regional rounds and judges.
Lewis F. Powell, Jr. Lectures	no Regent Liaison Chair Griffin B. Bell	To arrange the presentation of lectures by distinguished speakers at regular meetings of the Fellows of the College in honor of Lewis F. Powell, Jr., the twentieth President of the College and the ninety-ninth Justice to sit on the Supreme Court of the United States.	<ul style="list-style-type: none"> One further lecture, followed by publication of the materials, is under consideration.
Professionalism	Regent Raymond L. Brown Chair James L. Magee	To seek to arrest and then to reverse the decline in the professionalism of the American Bar; to develop a library of articles and other written materials on the subject of professionalism that can be made available to members of the College and to other interested parties; and to engage in such other activities in the area of professionalism as may be requested by the Board of Regents.	<ul style="list-style-type: none"> The Committee has been asked to examine again in greater depth the question of effective distribution of the Code of Pretrial Conduct (and equally the Code of Trial Conduct) with specific attention being paid to the possibility of distribution to judges at the State level and the role which might be played in this connection by State Committees. The target is to have the project as complete as possible by the Spring Meeting, so that a decision can be made at the Spring Meeting on what to recommend to the Executive Committee. The Committee is also engaged, at the request of the President, in an analysis of local rules with respect to "solicitation" with a view to recommending minimal standards appropriate for application by the College in its assessment of candidates for Fellowship. Committee is working on this issue but will not have it resolved by the Spring Meeting. An Ad Hoc Committee is being formed to study and determine the distribution of the Codes.

GENERAL COMMITTEE ACTIVITIES COMPENDIUM AS OF FEBRUARY 17, 2004

Science & Technology in the Courts	Regent Brian O'Neill Chair David L. Grove	To monitor developments in the fields of science and technology in the courtroom and to monitor their effects on trial advocacy.	<ul style="list-style-type: none"> ▪ The Committee is engaged in the circulation for comment of its revised Courtroom Technology Guidelines with a view to settling on the question of whether they should be recommended for publication by the College. A copy has been forwarded to Communications Committee Chair, David O. Larson, for review. ▪ The Committee has been asked by Larry Hoyle, the Chairman of the Complex Litigation Committee, to consider developing a chapter (for use as part of its Manual on Mass Tort Litigation) on technology and related evidentiary questions associated with mass tort litigation. The Committee is engaged in assessing the subject with a view to determining whether it can make a useful contribution as requested. ▪ The Committee is actively engaged in preparing a presentation on Using Technology to Win at Trial for a morning session of the 2004 Spring Meeting of the College in Phoenix. ▪ The Committee would like the Board to consider a name change for this committee to Technology in the Courts Committee.
Special Problems in the Administration of Justice	Regent Edward W. Mullins, Jr. Chair J. Donald Cowan, Jr.	To promote improvements in the administration of justice and maintain proper liaison with others to that end.	<ul style="list-style-type: none"> ▪ The Committee has identified four principle areas for analysis in its project on Electronic Discovery; specifically the scope of electronic discovery; objections; court orders and issues relating to forensic computer analysis. Each of these subject areas has been turned over to a working group. The product of this exercise will be a full Committee report on the subject schedule for October 2004.
Teaching/Trial & Appellate Advocacy	Regent Dennis R. Suplee Chair Richard M. Zielinski	To promote and encourage the teaching of trial advocacy and the participation of the College and its Fellows in the teaching process.	<ul style="list-style-type: none"> ▪ The Manual developed for the Teaching of Trial Skills for Public Interest Lawyers has been circulated widely and courses have been held, or are in the planning stages, in Washington, California, Texas, Wisconsin, South Carolina, Virginia, New York, New Jersey and the New England states. ▪ Plans are now being finalized for a four-day NITA-style trial advocacy workshop to be held March 8-11 in Massachusetts. Committee has requested Executive Committee's approval to co-sponsor this Program in conjunction with the Legal Services Training Consortium of New England. ▪ ▪ The Committee is actively engaged in the coordination, with State and Province Chairs, of efforts to expand these highly successful programs.
Task Force on Federal Sentencing Guidelines*	Regent Thomas H. Tongue Chair Earl J. Silbert		<ul style="list-style-type: none"> ▪ This Task Force, chaired by Past President Earl Silbert, has been created by Past President Warren Lightfoot to consider recent actions by Congress and the Department of Justice seriously curtailing the discretion of federal judges in imposing sentences in the criminal process. ▪ The Task Force will meet with the Federal Criminal Procedures Cttee in Phoenix. ▪ Tom Tongue will report to the Board in Phoenix on the status of activities of this Ad Hoc Committee.
International Exchange Committee*	Chair Payton Smith		<ul style="list-style-type: none"> ▪ This ad hoc Committee, to be Chaired by former Regent Payton Smith, has been created by Past President Warren Lightfoot to address the question of two Legal Exchanges – the first an Anglo American Exchange planned for September 2004, and a Canada-US Exchange which will take place at some time in the near future.
Committee on College Publications*	Regent Charles H. Dick, Jr. Chair David O. Larson	To review the College publications, including the <i>Bulletin</i> , recommending changes to elevate the quality and reach of these communications.	<ul style="list-style-type: none"> ▪ The Ad Hoc Committee has had two conference calls. A report will be submitted to the Executive Committee for their meeting prior to the Board of Regents Meeting in Phoenix.
Task Force on Civil Trials*	Regent & Chair Gregory P. Joseph	To study and report on the phenomenon of the disappearing civil trial.	<ul style="list-style-type: none"> ▪ The Ad Hoc Committee has had one conference call and plans a meeting in Phoenix. The Committee is aiming for an interim report for the Executive Committee Meeting at the Annual Meeting in St. Louis and the final report within some stated and reasonable period thereafter.
Committee on Interactive Relationships with the Judiciary*	Regent Raymond Brown Chair Philip J. Kessler	<p>The responsibility of this Committee will be to weigh and consider the most effective manner in which to achieve the objectives of identifying and communicating with the organizations of the Judiciary at the Federal, State and Province levels for the purpose of seeking opportunities by which the Fellows, at both the State and Province levels, might:</p> <ul style="list-style-type: none"> ▪ contribute to the ongoing education of the Judiciary through participation in their judicial programs for the purpose of making a contribution to the strength and independence of the Judiciary; and ▪ more effectively circulating the publications of the College amongst the Judiciary, particularly the Codes of Pretrial and Trial Conduct and future College publications; and ▪ identify areas in which, and projects on which, the College and its Committees can collaborate with the Judiciary at all levels. 	

*ad hoc committees

LEADERSHIP ADVOCACY

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well trained in criticism, well trained in doubt, articulate and able to point out your shortcomings as you proceed. You have all the burdens and obligations of leadership, but you lack the formal authority, but you must achieve a collective purpose, which is the reason you have chosen to lead.

“[I]t is to this leadership, it’s the leadership in this situation, it’s to the techniques and skills of leadership in situations like this that I want to address the remainder of my remarks, because it is my view, that the lack of formal authority, the lack of hierarchical command-and-control authority is not a reason to abandon leadership. It’s not an excuse, it’s not a worthy excuse for a lack of leadership, but rather ... it’s a reason to adopt a particular style of leadership, not leadership by command and control, but leadership by influence, by persuasion, by advocacy, if you will....

“I also believe that leadership of this kind, leadership by influence, leadership by teaching, leadership by inspiration, leadership by advocacy can be learned. It’s not genetic, people are not born with it. It isn’t just good

“I also believe that ... leadership by influence, leadership by teaching, leadership by inspiration, leadership by advocacy can be learned.”

luck, that I believe it can be learned from practice and experience. But what needs to be learned ... [is] in fact to embrace a more powerful form of leadership, leadership by influence and persuasion, where you can cause people to contribute, to conform, to see a common purpose to embrace a public purpose as their own, to be part of a team, to defer their interest to the collective interest, to work in common cause to reach higher. And

you do this not by telling them, but by teaching them, not by telling them but by influencing, by coaching, by inspiring them, by showing them, by persuading them, simply put, by leading them.

“I can imagine no group of men and women more able to assume this sort of role than you, the finest advocates Canada and the United States has produced in this generation. Because for me, advocacy, the art and the skill of advocacy in which you all possess in such great abundance, is so central to a task of leadership. Because for me at least, advocacy is teaching, advocacy is coaching, advocacy is inspiring, advocacy is showing, it’s influencing, it’s persuading, it’s the skills of the advocate which are fundamentally the skills of the leader in a world of leadership by influencing, rather than command. And so I thought I might just reflect on some lessons about leadership by influence, leadership by influence that advocates are particularly well suited to perform.

“*Lesson 1:* ... Don’t change, be yourself. Don’t stop doing what got you here; keep being yourself as you proceed as a leader. Don’t try to become something else just because you assume leadership.

“*Lesson 2:* Set goals. You can’t lead anyone anywhere unless you know where you want to go. You have to have a purpose, you have to have a set of goals.... [W]ork to build support for them, ... work to communicate them, but it’s always working to some goals.... The goals can be very different; they can abstract; they can be very specific, but without goals that are able to articulate and write down, I believe it is very, very difficult to lead successfully.

“*Lesson 3:* Lead by example. Nothing speaks louder of a leader in a situation of influence, leadership by influence, than how the leader herself conducts herself.... [B]oth the positives of the leadership and the negatives of the leadership will be observed, commented upon, mimicked and repeated by those you try to lead. It is in many ways more powerful what you do, rather than what you

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say, because every one watches the leader, so lead by example.

“Lesson 4: Listen carefully, consult widely, speak softly. Good leaders I believe listen a lot. They ask a lot of questions, they listen to every one, they don’t have favorites, they don’t allow any one person to have their ear, and then when they speak, they speak softly.... People are brought up to listen to what the leader says, and so you don’t need to shout when you are a leader.... You can speak softly, and every one will hear.... And when you are listening, you are consulting. And consulting is fabulous tool of leadership, if you wish to lead by influence, rather than command. It’s an opportunity to get people inside the tent. It’s an opportunity to see how others understand the same problem you confront. It’s a chance to build understanding and to begin to communicate where your solutions may lie.... But when I say listen, and when I say consult, I don’t want you to mistake that for democracy or for gridlock. Because if you are going to lead, you have to lead; you have to lead, not stall.

“Lesson 5: Be a good colleague, and be a good person. You are not leading institutions; you are not leading a firm; you are not leading an organization; you are leading men and women. You are leading individuals with real lives and real problems, problems of health, problems of marriage, problems of finances, problems with children, problems of self doubt, problems of ambition, all sorts of personal problems, and unless you think of organizations and the people you lead as those individuals and unless you treat them with respect, unless you are there for them, on their terms, on their problems, it will very, very difficult to lead them and bend them to your purpose and your cause and the collective interest.... [I]t’s a way of leadership people will not forget when you were there for them, when they need you the most.

“Lesson 6: Praise. Be generous with praise. All people have good in them, I believe. Recognize it, don’t be reluctant to recognize to it, don’t be reluctant to praise them. All ... of us need to hear positive comments about our work and about our efforts.... It’s easy to allow people to be proud about themselves and about what they are contributing.... Tell the world someone is doing well.... There is a virtually unlimited supply of generosity available, so use it, use it generously and spread it liberally to people who are working hard, trying hard, and making their contribution.

“Lesson 7: Be persistent, but don’t be patient. Not much that matters in life, in change and leadership is easy.... It takes a constant persistence of message and action and repetition in order to make a difference.... Patience is the enemy of the progress. It is persistence, not patience, that gets it done. Change is tough, if you stick with it however, if you don’t back off, if you constantly tack back to the goals, if you persist and are not patient, then progress will be made.

“Lesson 8: Ask for help. This one is hard for leaders.... [W]hen you are chosen a leader of something, you worry you are meant to know all the answers, and you are meant to be able to do it all, and if you ask for help, it’s a sign of weakness, of vulnerability.... [O]ne of the great things about being a leader is people want to help leaders.... It’s a privilege of association to be asked to help, and people are abundant in their generosity in offering help....

“Lesson 9: ... Communicate. Leaders, in my view, cannot communicate too much.... You build understanding, you build commitment through communication. You repeat and repeat your messages and your directions and your goals, and you build momentum around them....

“Lesson 10: Be proud, be passionate, be principled. Effective leaders are proud—are proud of their cause, their calling or the institution they represent. They’re passionate,

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they're passionate in their determination to make a difference, and they're excited about what they're doing.... [E]ffective leaders are also principled—because leadership in most situations that matter is complicated, and you don't often get it right every time.... [Y]ou can afford to be wrong as a leader. What you can't afford to be is unprincipled and allow that to lead you to the wrong place. But people are very forgiving if they see you acting from principle, whether you happen to get it right or wrong on a particular occasion. And principle, of course, lies at the heart of law. And I believe it lies in the heart of leadership as well.

"And then *Lesson 11*: Be self-confident, but be modest. You need to act like a leader if you're asked to lead. You need to fill the office, you need to step up to the plate. You need to be a leader. But you certainly need to be modest also.... [M]ost of what we accomplish, in fact, as leaders will not be our work but will be the work of others—further reason for modesty. Resist the temptation of the perquisites of office, the opportunities that come to distance yourself from your colleagues by virtue of your leadership. Share, share broadly with your colleagues. Share the credit broadly. Share the perquisites broadly. Remain a colleague, because the privilege of leadership itself is reward enough....

"A common thread of all these lessons, to me: the importance of advocacy; the importance of persuasion; the importance of principled, passionate communication; the importance of teaching and explaining; the importance of leading the way with words.

"There are just three last things I want to say. First, leadership by influence and by persuasion really works.... It's more respectful of those you work with; it empowers and unleashes their full talents and allows them to reach their full potential, for all their potential to be realized, for the full possibilities of their lives to be realized with yours in common cause, and the effect of that will always

transcend anything one can do on one's own. It may be more demanding than other forms of leadership, but in the end it is more effective than other forms of leadership.

"Second, I think you can go beyond influence to inspiration. The biggest challenge of leadership is to find and bring out the best, not just in yourself, but in all those around you—not just to influence your colleagues, but in fact to inspire your colleagues to reach higher, to try harder, to go further.... And inspired people—inspired people, not just led people, but inspired people—know virtually no limits to what they can accomplish.

"And then finally, third, I simply want to make an appeal to all of you ... as the leading advocates of a generation from two great legal systems, as members of what I consider to be the most honorable profession of all, as people of extraordinary ability and extraordinary capacity as advocates ... to use these extraordinary talents and privileges to lead—to choose to be a leader, to transcend your work as individual advocates on individual cases, to go beyond the individualization that defines the role of an advocate, and to choose to be a leader and to choose make your difference. I can, of course, have no preferences with respect to the ideologies you choose to embrace or the causes you choose to support, but all of us look to you, the leaders of the bar, to do what you can do—to do what you can do to take forward organizations, to take forward collective causes, to take forward public purpose. We all do look to you, and we do ask that you take your full place ever more prominently as leaders, not just of the profession, but of our communities and of our organizations. If you do choose to be a leader—to choose to make your difference—it will bring you great joy and will bring the rest of us great good." ♦



NOTABLE QUOTES

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democratic institutions. Hence, in my view, the importance and the responsibility of professional organizations like this one, in difficult and troubled times....

The true impact of the speedy ratification of the Rome Treaty creating the International Criminal Court and the growth of universal jurisdiction in national courts will take many years to assess. However, a few observations are immediately apparent: First, the enforcement of international humanitarian law has taken an irreversible step forward. This is evidenced not only by the success of the two *ad hoc* tribunals for the former Yugoslavia and for Rwanda, but also by the launch of the tribunal for Sierra Leone, which is vastly supported and funded by the United States. But also in my view, much more fundamentally by a shift in the global human rights culture. That culture carries with it the expectation of millions of human rights holders who until very recently never perceived themselves as such. But globalization of the culture of right, combined with the spread of democracy, has irreversibly changed their sense of entitlement, and their aspirations are now



**Justice Arbour Receives
Honorary Fellowship (with
Past President Gene Lafitte)**

supported by the unprecedented reach of NGOs worldwide.... [T]he possibility of criminal prosecutions of anyone for war crimes anywhere in the world

on the basis of universal jurisdiction of domestic courts has increased dramatically in the last few years, and I believe it is to continue to increase. Both before international courts and in many domestic prosecutions ... prosecutions for

war crimes and crimes against humanity, as well as for genocide, will test the legal system like nothing before the advent of complex class actions, for instance, to which they have many features in common. Issues of national security, demands for secrecy, witness protection requirements, all combine to make these kinds of cases a huge strain on the ability of the judicial system to maintain the balance under which we have escaped so far, living in a world in which, to use the words of Herbert Thacker, "All are safe, but none is free." I cannot think of any organization anywhere in the world which has a greater capacity than this organization to safeguard the features of the common law type trial which has served us so well for so long. I am confident that we can and will adapt, as we always have, to the demands of a changing world.

*Louise Arbour, Justice, Supreme Court of
Canada and Former War Crimes Prosecutor*

♦ ♦ ♦

MEDIATION OF HIGH-STAKES MULTIPARTY DISPUTES

I'm going to talk about the impossible. You have to understand how impossible these cases are. These are generally complicated antitrust or securities class action cases, multiparty construction cases, high stakes intellectual property or mass tort cases. There are impossible—and especially for a mediator—because they demand levels of expertise in multiple fields, in any one of which one would be challenged and indeed proud to have some level of expertise. So it involves challenges really beyond any one individual's ability to be successful.... [F]ew mediators are knowledgeable in the fields of learning relevant to these issues. We don't know the subject matter, and we don't know the modes of thought that the people who are involved in the subject matter have developed to master them....

Second, these cases involve specialized—and some would say esoteric—legal subject

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matter beyond the normal experience these days of the generalist lawyer, judge or law professor, but malleable intellectual putty in your hands if you are a specialist in antitrust or securities or intellectual property or mass torts. Mediators aren't specialists in any of these fields, and you are all too happy to be dazzled, the ignorant generalist mediator, with finely honed discourse....

Third, economics is really important. Legitimate world-class economists or other technical experts are often deeply involved in these cases. This means you have to talk to them. This usually consists mostly of listening. Now, even if a mediator—even when he's been trained at Harvard—can get up to third gear or can fake it on the underlying subject matter and the governing legal doctrine, economics will get you. Try sitting through a three-hour or three-day discourse between competing teams of econometrics experts from Stanford and MIT, flashing their curves and dueling stochastic disturbances, and then try to articulate back what the case is all about. Few mediators feel very comfortable one-on-one with a Nobel laureate in the pay of a fighting advocate.

Fourth, the stakes are mega. Billions. You have to get used to the “buh” because everybody always makes a mistake through the course of the case and says, oh, you know, three million or four million. They're talking *billions*. And he's got to get comfortable with the B-word, we call it. Okay. And the stakes matter, because they're bet-the-business situations and compromises aren't usually acceptable, and some cases are not even quantifiable at all.... In addition, the cases are multiparty—very complicated and diverse interests even among the participants supposedly on the same side....

On the other side of the “V” are the alleged conspirators and their spun-off, resold, acquired and combined affiliates. It's not uncommon for there to be differences of opinion even within the same group, and so you have the problem—and I would say the

opportunity—of coalition breakdown and reformation. It can create particular problems when you're dealing with Fortune 100 companies or, worse yet, sovereign states....

So, on top of these cases—on top of these complexities, which are too much for any one person to deal with, you have all of the usual barriers to settlement that are common in even the simplest two-party, low-stakes ... type of case. You've got communications failures, wrong participants, not enough necessary information, extrinsic linkages, bad timing, inaccurate assessments of the likely legal outcome, lack of resources, poor negotiation skills. These are the usual things we deal with in every case, but in these bet-the-business cases, you've got all these other things.

How do they ever get mediated? How do they ever get resolved? ... My experience with these cases suggests that the key to a successful mediation is a profound respect

for and understanding of roles and the limitation of each ... participant's role in the process. Mediation is such a wonderfully flexible process that it can be adapted to almost any situation, including these major, complex, technical multiparty cases, but structuring a mediation for these cases requires an appreciation by the parties, counsel, the court and most especially the mediator of the roles that each of them have to play. And, to be successful, mediation must permit each participant in the process to properly play his or her role. Different pieces have to be brought together in the right sequence, at the right time, with the right level of intensity in order for it to work. And, if any of the participants, including especially the mediator, are not



Eric Green

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highly sensitive to the limitations on her role, the process will break down. For the mediator, this means you have to be prepared to step back and intensely assess the case from a process perspective that recognizes the possibility of everything from a very deferential mediator role to a highly active, evaluative mediator role and every point on the continuum in between. It means you have to get comfortable with your relative ignorance ... of the underlying subject matter, of the economics, of the legal concepts. And you have to figure out how to get these analyses and get the learning regarding these very important elements out of the other people involved in the process and maximize their roles. You have to pull the best from the lawyers—very important role. You have to pull the best from the experts. You have to pull the best from the parties. And sometimes you have to pull the best from the court, as well....

The mediator has to be the expert and the leader in dispute resolution process. And the mediator has to exercise that leadership through this multidimensional task.... Whenever the mediator senses that the experts or the lawyers or the court, despite their superior expertise in their areas, are on the wrong track, you need to lead them back to the right track. That's the leadership that a mediator has to play. In other words, the mediator has to be prepared for the fact that mediation of these cases is like a three-ring circus, and they require a mediator with the balance of the tightrope walker, sometimes the strength of the strong man, the mystique of the bearded lady and the fearless idiocy of the lion tamer, let alone the BS of the con artist.

*Professor Eric D. Green, Boston University
School and Nationally-Known Mediator*

♦ ♦ ♦

MARBURY V. MADISON REVISITED

In a profession and a culture that loses touch with its history with tragic efficiency

the importance of *Marbury* needs a restatement.... *Marbury* was a masterwork of indirection, a brilliant example of [Chief Justice] Marshall's capacity to sidestep danger while seeming to court it, to advance in one direction while his opponent was looking at another. The Court was in a delightful position of rejecting and assuming power in a single breath. In essence most observers believe, the Chief Justice manufactured a conflict between statute and Constitution that was not obvious and quite avoidable. Only then was he ready to reach for the prize, the power to define constitutional law in the United States. ... Chief Justice Marshall's case has simplicity. First, because the Constitution was an exercise in the people's original will to create a government to their own liking, the Constitution not only allocates power, it establishes limits on power, limits not to be transcended by the departments of the Federal government. ... Second, to serve as an effective limit, the Constitution must be supreme, paramount, controlling as law. Otherwise in Marshall's words, written constitutions are absurd attempts to limit a power in its own nature illimitable. Judicial review is nothing but an inference. It comes not from text or anything specific in the Constitution. It is an inference from the fact that the people chose a written Constitution with words to be taken seriously.... Third, last, but most critically, the judiciary cannot ignore the Constitution when performing its duty of saying what the law is. The Constitution must be and shall be enforced.... Marshall knew, and indeed it was true in that very case, that a statute's repugnancy to the Constitution is not self-evident. It is, rather, an issue of policy. Someone must decide. The question is "Who?" ... [T]he controversy in our day is whether unelected judges shall be permitted to expound, and in some cases revise, the meaning of open-ended and aspirational elements of the Constitutional text. *Marbury* provides quite literally no explanation for the idea that lawyers, nominated by the President, confirmed by the Senate and unaccountable to the people,

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should be arbiters of our nation's faith, morals and ideals. *Marbury* is one reason the least dangerous branch has become the most powerful Court the world has ever known. But the opinion itself does not explain why.

When assessing the contribution of judicial review to the American experiment, it is easy to presume that the impact has been positive. Today, we take for granted the gifts of religious freedom, expressive of liberty, equality, limits on abusive police practices, guarantees of a fair trial and personal privacy. Perhaps more precisely we think of these rights as God-given but secured by the Court. Almost all of this refers to decisions rendered in the past fifty years. However, if you asked a



Harry F. Tepker

historian about the contribution of the Court one hundred and fifty years after *Marbury* in 1953, you would encounter a much different assessment.... Look at the record. Over fifty years passed after *Marbury* before the Court again wielded the

power claimed by Marshall in *Marbury*.... Since World War II, much has changed. One sample of what American courts offer to American democracy is based both on John Marshall's legacy of judicial review and his cousin Thomas Jefferson's legacy in the words of the Declaration of Independence, "All men are created equal." ... Our early ideas about equality were fragmentary and inconsistent. They were marred by prejudice. They were defined by racism, sexism, fear of foreigners and fear of the unknown. The law and judicial review have improved our ideas and understandings of equality, though it took

some time. A man and woman may love and marry even if one is black and the other is white. Employers may not use most forms of educational testing or even a person's arrest record when deciding who to hire. Women may not be barred from military academies, and men may not be barred from nursing schools. Employers must offer disability benefits to the pregnant on roughly the same terms as they offer benefits to those suffering strokes heart attacks, and back injuries. ... States may not use literacy tests or poll taxes to decide who may vote. States may not bar aliens, even illegal aliens, or illegitimate children from certain various public benefits, and a State may not pass a constitutional amendment that bars homosexuals from seeking relief through ordinary political processes. States, using the same power created by Marshall, have pursued the idea of equality.... Now, both John Marshall and Thomas Jefferson were wise and prophetic men, but I think you will agree with me that we can doubt that either of the men foresaw much of this when they were present for the creation of judicial review or the promise that all men are created equal. Still, I think it is fair to say that these contributions make equality a truer or realistic or more vibrant promise of American democracy and that it is at least in part because of the work of lawyers and judges through the process of constitutional litigation. But the record is mixed. There is no doubt about it. Probably no better and no worse on balance than the work of the other two branches. At times, *Marbury* and its creation, judicial review, has dwarfed the capacity of the people for self-government. At times, it has struck down the wise, the pragmatic, the egalitarian and the moral. More recently, I think, Justices have been striving to redeem and rehabilitate our nation's claim to be deserving of democracy, reminding us that basic principle must limit even majorities and the most powerful.... And for the last analysis, it has always seemed that we favored judicial review, not because of the record, but because of our hopes, because of what the

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Justices might do next for liberty and justice. Despite all the ammunition supplied to critics and cynics, we hope that our courts, our branch of government will remain committed to principle, that it will give us just cause for our professional faith when so many of our fellow citizens find it so difficult to believe in principle or in law.

Professor Harry F. Tepker, University of Oklahoma School of Law

♦ ♦ ♦

ON TRIAL BY MEDIA

[T]rial by media: this is surely a concern to every trial lawyer. It threatens civil justice, as well as criminal justice. Our systems of criminal justice are based on the fundamental proposition that an accused is presumed innocent. Civil justice in both our countries requires the plaintiff to discharge by a preponderance of evidence the burden of proof. Yet, far too often, these principles become an illusion. More and more in both our countries verdicts are being rendered before the accused's trial has even begun.... But should there be limits on what the accused or the civil defendants are obliged to rebut because of public pronouncement of the police, prosecutors or journalists? Prosecutors in criminal matters do not represent a private citizen. They act as agents of the State itself, and in that official capacity have a right to inform the public of indictment. Nothing, however, justifies a prosecutor engaging in pretrial publicity that heightens public condemnation of the accused.... Freedom of the press is justified in terms of the public's right to know and in the belief that a well-informed population is essential to the survival of democracy in general. One must, however, never forget the peculiar nature of the media industry is two-fold: one, to inform, comment and to educate; and two, to generate profits from information, comment and

education. Although the first objective is basic, it cannot sustainably be realized without the second objective being realized first. To put it more bluntly, the media are in the business of entertainment, while courts are in the business of justice. The two will obviously, and inevitably collide, with too often



Pierre A. Michaud

regrettable results. Entertainment should not be allowed to take place at the expense of the accused's right to the presumption of innocence or his or her right to an impartial jury.... All important rights and freedoms must be balanced against other and often competing

rights. The media must, therefore, accept that some limitations will necessarily be imposed in the exercise of its power.... In a perfect world, trials should be held in an atmosphere undisturbed by waves of public passion. Judges and juries should be free of any attempts to influence them, and no one should suffer from adverse publicity before his or her trial. But, we do not live in a perfect world. Our rules such as the *sub judice* rule and jurisprudence of contempt should perhaps be reconsidered at this time, in the light of the monstrous media influence, an influence that has grown almost out of proportion these last ten years.... [A]fter a considerable survey of material on this subject, you will be pleased to know ... I have found absolutely no better summary of the appropriate approach than the one contained in the American College of Trial Lawyers Report on Fair Trial of High Profile Cases.

Pierre A. Michaud, Q.C., Former Chief Justice of Quebec

♦ ♦ ♦

REGIONAL ROUNDUP

(A SUMMARY OF SIGNIFICANT ACTIVITIES REPORTED TO THE BOARD OF REGENTS AT THE 2003 ANNUAL MEETING IN MONTREAL)

DELAWARE, NEW JERSEY AND PENNSYLVANIA (Regent Dennis R. Suplee)—Martin McGreevy of Tinton Falls is the new State Chair for New Jersey.

♦ ♦ ♦

ARIZONA, HAWAII, SOUTHERN CALIFORNIA (Regent Tom Slutes)—President David Scott will present the Emil Gumpert Award to the University of Arizona in April during a meeting of the University Board of Regents.

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COLORADO, KANSAS, NEW MEXICO, OKLAHOMA, UTAH AND WYOMING (Regent Mikel L. Stout)—President-Elect David Scott and his wife Alison attended the Kansas State Committee's annual meeting. Robert E. Sabin is the new State Chair in New Mexico. The Oklahoma State Committee has been supporting the regional moot court competition. The Utah State Committee has put on a training seminar for public interest lawyers.

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CONNECTICUT, DOWNSTATE NEW YORK AND VERMONT (Regent Gregory P. Joseph)—Andrew Bowman of Westport is the new State Chair in Connecticut. The Downstate New York Committee is planning a meeting in Bermuda.

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ARKANSAS, LOUISIANA, MISSISSIPPI AND TEXAS (Regent David J. Beck)—There will be a regional meeting on May 2 on the Gulf Coast, to which federal judges will be invited.

♦ ♦ ♦

UPSTATE NEW YORK AND ONTARIO (Regent Brian P. Crosby)—David Gouldin is the new State Chair of Upstate New York Committee,

which is putting on programs for the teaching of civility in area law schools. The Ontario Province Committee conducted a joint program with the Advocates Society, at which Regent Dennis Suplee gave the keynote address.

♦ ♦ ♦

ALASKA, ALBERTA, BRITISH COLUMBIA, IDAHO, MONTANA, OREGON AND WASHINGTON (Regent Payton Smith)—Regent Smith spent two days in Alaska and there was an excellent Regional Meeting in Jasper.

♦ ♦ ♦

ILLINOIS, INDIANA AND WISCONSIN (Regent Patricia C. Bobb)—The sole woman Fellow in Indiana has been named to the State Committee.

♦ ♦ ♦

KENTUCKY, MICHIGAN, OHIO AND TENNESSEE (Regent Sharon M. Woods)—The Michigan State Committee has established a program where Fellows travel to the law school to discuss civility with the students. Secretary Mike Cooper attended an Ohio State Committee dinner held in the Rock and Roll Hall of Fame in Cleveland.

♦ ♦ ♦

ALABAMA, FLORIDA AND GEORGIA (Regent John J. (Jack) Dalton)—As noted elsewhere in this issue of *The Bulletin*, members of the Alabama State Committee have pledged to contribute their hourly rate to the College Foundation.

♦ ♦ ♦

DISTRICT OF COLUMBIA AND MARYLAND (Regent Albert D. Brault)—President Warren Lightfoot and his wife Robbie attended the District's annual meeting. The Maryland State Committee is creating a fellowship in litigation at the University of Baltimore Law School.

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REGIONAL ROUNDUP

(Continued from page 33)

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NORTH CAROLINA, SOUTH CAROLINA, VIRGINIA AND WEST VIRGINIA (Regent Edward W. Mullins, Jr.)—President Warren Lightfoot and Regent Mullins attended the West Virginia State Committee dinner in Morgantown. Susan Brewer is the new State Chair. The South Carolina State Committee has established a \$500 award for the outstand-

ing student in a trial advocacy program at the University of South Carolina Law School.

♦ ♦ ♦

IOWA, MANITOBA, MINNESOTA, MISSOURI, NEBRASKA, NORTH DAKOTA, SASKATCHEWAN AND SOUTH DAKOTA (Regent Brian B. O'Neill)—The North Dakota, South Dakota, Saskatchewan and Manitoba Committees held a joint Regional Meeting.

♦ ♦ ♦

REPORT FROM EXECUTIVE DIRECTOR

Executive Director Dennis Maggi continues to travel about the United States and Canada after having taken over as the College's executive director in June. He orchestrated the very successful Annual Meeting in Montreal and attended the Eastern Chairs Workshop in Charleston, South Carolina and the Western Workshop in San Francisco.

"The College leadership is committed to having me attend any regional activity," Maggi said. "I will be at the regional meeting in Seattle and the New England Fellows dinner in Boston. I'm looking forward to getting out there. I want to know what your thoughts are and how we can continue to improve the college website at actl.com."

As a measure of its success, the website received 63,000 hits in December 2003, Maggi said.

"Both President Scott and I are trying to stress really getting the Fellows to access the website for information," he said. "Especially as we continue to improve the website, it will become more of a resource that they can utilize. We are looking at major improvements internally to put a lot of information that Fellows are asking for on line."

Maggi also has continued his routine of sending out the weekly email reports to the Board of Regents.

He also announced that the College office has hired a new senior accountant, Leslie Richard, and he encouraged all Fellows to feel free to call or email the national office at any time. ♦

STAFF INFORMATION

(TO FACILITATE REQUESTS HERE IS A LISTING OF COLLEGE STAFF MEMBERS AND THEIR AREAS OF RESPONSIBILITIES. THEY CAN BE REACHED AT 949-752-1801.)

Dennis J. Maggi, CAE, Executive Director, dmaggi@actl.com
Kathy Good, Executive Assistant/Office Manager, kgood@actl.com
Suzanne Tavares, Meeting & Conference Manager, stavares@actl.com
Natalie DeWitt, Membership Manager, ndewitt@actl.com
Leslie Richard, Senior Accountant, lrichard@actl.com
Tamera Flora, Receptionist, tflora@actl.com

AWARDS, HONORS AND ELECTIONS

J. EUGENE BALLOUN, Overland Park, Kansas was awarded the 2003 Charles E. Whittaker Award by the Lawyers Association of Kansas City. The Whittaker Award is given annually to persons who promote the welfare of the public and the Bar, encourage cordial relations among members of the Bar, advance the science of jurisprudence, support the administration of justice and aid and support the courts in the administration of their rules governing the practice of law.

♦ ♦ ♦

BRUCE A. BROILLET was honored on November 8, 2003 by the Consumer Attorneys of California with the 2003 Edward I. Pollock Award "in recognition of his many years of dedication, outstanding efforts and effectiveness on behalf of the causes and ideals of the Consumer Attorneys of California."

♦ ♦ ♦

Tampa Bay Chapter of the Federal Bar Association selected St. Petersburg shareholder, **SYLVIA H. WALBOLT**, as the recipient of the 2003 George C. Carr Memorial Award. Walbolt is the first woman to receive the award. Named after the late Judge Carr, it is the highest award given by the Federal Bar Association's Tampa Bay Chapter. The award recognizes excellence in federal practice and distinguished service to the federal bar.

♦ ♦ ♦

CHARLES H. DICK, JR., Managing Partner of the San Diego office of Baker & McKenzie and recently elected ACTL Regent, was awarded the 2003 Daniel T. Broderick III Award at the 19th Annual Red Boudreau Trial Lawyers Dinner on November 1, 2003. The Daniel T. Broderick III Award is presented to a San Diego attorney who "epitomizes the highest standards of civility, integ-

ity and professionalism," in the field of trial advocacy. The recipient is selected by the Consumer Attorneys of San Diego, the American Board of Trial Advocates, the San Diego Defense Lawyers, and the Association of Business Trial Lawyers—San Diego.

♦ ♦ ♦

DAVID O. TITTLE of Indianapolis, Indiana, has been appointed by order of The Indiana Supreme Court as member of the State Board of Law Examiners Committee on Character & Fitness for Admission to the Bar of Indiana.

♦ ♦ ♦

NICK C. NICHOLS, long time Houstonian and a senior partner in the law firm of Abraham, Watkins, Nichols, Sorrels, Matthews & Friend, has received the prestigious War Horse Award from the Southern Trial Lawyers Association. The award will be presented at a black tie dinner at the Windsor Court in New Orleans.

♦ ♦ ♦

BETTINA B. PLEVAN of New York City has been nominated as President of the Association of the Bar of the City of New York. If elected, Plevan will succeed E. Leo Milonas as the 61st president in the Association's 133-year history. The election will take place at the Association's annual meeting on May 18, 2004.

♦ ♦ ♦

ROBERT J. ROTH of Wichita, Kansas has been honored with the 2003 Professionalism Award of the Kansas Bar Association.

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AWARDS, HONORS, ELECTIONS

(Continued from page 35)

DENNIS R. SUPLEE of Philadelphia, Pennsylvania has received the Judge Francis X. McClanaghan Award from the Law Alumni of Saint Joseph's University. Named in honor of the founder of the Law Alumni Chapter, the award is presented annually to a St. Joseph's alumnus who has distinguished himself/herself in the law and brought distinction to the university.

♦ ♦ ♦

Past President **LIVELY M. WILSON** of Louisville, Kentucky has been honored by the establishment of the Lively M. Wilson Oral Advocacy Program at Brandeis School of Law at the University of Louisville.

♦ ♦ ♦

Past President **GRIFFIN BELL** of Atlanta, Georgia, and Fellows **PHILIP H. CORBOY** of Chicago, Illinois, **JOSEPH D. JAMAIL** of Houston, Texas, **PATRICK F. MCCARTAN** of Cleveland, Ohio, and **MELVIN I. WEISS** of New York, New York have appeared on The National Law Journal's list of Most Influential Lawyers in America by at least five times since 1985.

♦ ♦ ♦

DAVID J. BECK of Houston, Texas has been named to the Judicial Conference Standing Committee on Rules of Practice and Procedure by U. S. Supreme Court Chief Justice William Rehnquist. Among other duties, the committee reviews all proposed amendments to any federal rules (appellate, bankruptcy, civil, criminal and evidence).

♦ ♦ ♦

JACK E. GORDON, JR. of Claremore, Oklahoma has received the Lord Thomas Erskine Award from the Oklahoma Criminal Defense Lawyers Association. The award is named after the 18th century Scottish lawyer whose defense of Thomas Payne cost him his post of Attorney General to the Prince of Wales. The award recognizes and honors a member of the criminal defense bar who has steadfastly placed the preservation of personal liberties over his or her own personal gain or reputation.

♦ ♦ ♦

PHILLIP A. WITTMANN of New Orleans, Louisiana was installed as president of the New Orleans Bar Association at the 79th annual dinner meeting in November 2003.

♦ ♦ ♦

FELLOWS TO THE BENCH

The College is pleased to announce the following judicial appointments of Fellows:

LARRY A. BURNS, U.S. District Judge for the Southern District of California

WILLIAM H. LAMB, Supreme Court of Pennsylvania.

ROBERT S. SMITH, New York Court of Appeals, Albany.

JAMES K. ROBERTSON, JR., Superior Court, Connecticut.

ROGER W. TITUS, U.S. District Court for the District of Maryland, Southern Division.

BROOK COTTER WELLS, U. S. Magistrate Judge for District of Utah. ♦

FROM THE EDITORIAL BOARD

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ing and more informative. We welcome your comments. We want to know what you want to see in it.

We know that there is a delay in delivery of anything entrusted to the United States Post Office. Remember that *The Bulletin* is posted on the College Website, www.actl.com, as soon as it goes to press. We encourage you to begin to visit the website regularly. Indeed, you will find there all the recent publications of the

College in a form that can be downloaded and printed, as well as a regularly updated calendar of College events. We anticipate that, over time, as the website is upgraded and as more and more of you become internet-literate, the website will play a larger role in the College's communication with its members. *The Bulletin* may well be transformed to reflect those changes. We are already addressing that possibility. Meanwhile, we encourage you to make visiting the website a part of your regular routine. ♦

STUDENTS HONORED AT MONTREAL MEETING

The College honored the following students at its 2003 Annual Meeting:

Kevin D. Toyne and Jennifer Malabar, University of Manitoba School of Law, winning team in the Sopinka Cup Competition; Marie-Eve Aubry, University of Ottawa, best overall oralist.

Dana Bennett, Jennifer Savage, Caroline Whittemore, Wayne State University Law

School, winning team in National Moot Court Competition. Bennett was the winner of the Fulton W. Haight Award to the best oral advocate in the competition.

Myriam Corbeil, Valerie Korozs, Marie-Eve Robillard, Annabelle Sheppard, University of Montreal School of Law, winning team in the Gale Cup Moot Competition. Ryan Breedon of York University Osgoode Hall Law School was the winner of the best oral advocate award. ♦



Annabelle Sheppard with Michael A. Cooper holding Gale Cup Award



Kevin D. Toyne and Marie-Eve Aubry with Brian P. Crosby

FIRST CANADIAN PRESIDENT

(Continued from page 1)

Mayor Gerald Tremblay, himself a francophone Harvard graduate, and the Premier of the Province, Jean Charest, represented a great introduction for the Annual Meeting. The conferring of Honorary Fellowship on Madam Justice Louise Arbour and the presentation by such distinguished jurists from north and south of the border were all very special. As a footnote, Dr. Irwin Cotler, the Member of Parliament for Mount Royal, and one of our invited guests, is now the Minister of Justice in the new Canadian government of Co Prime Minister Paul Martin. Apart from such distinguished speakers as Professor Harry Tepker and Judge John Martin, the flair of Dr. Kathy Reichs captured the imagination of most and epitomized our tradition of inviting program speakers who frequently qualify as non-traditional for a gathering of lawyers.

In all probability, the College is at present more aggressively engaged in important projects than it has ever been in its history. A detailed compendium of all of the activities of the general committees of the College is available on the website. An examination of these activities will give a very distinct flavour of what we are about. Your committees are addressing such diverse subjects as electronic discovery, corporate criminal liability, merit selection and the independence of the judiciary, mediation regimes across the continent, the protection of attorney-client privilege, offers of judgment, complex litigation and civil remedies for the victims of terrorism, to name but a few. These in addition to the committees of the College which manage its traditional activities such as the National Moot Court Competition and the National Trial Competition, together with the awards for contributions to the profession and courageous advocacy.

Three very important projects are underway through the vehicle of special committees. They deserve particular mention. My predecessor Warren Lightfoot established a Task Force under the chairmanship of Past

President Earl Silbert to explore the current difficulties associated with the sentencing guidelines, in particular, constraints upon the exercise of judicial discretion in implementing downward departures from the dictates of the guidelines, a problem dealt with so eloquently by Judge Martin in his address at the Montreal meeting. This subject, perhaps the most troubling in terms of contemporary preservation of the independence of the judiciary, is in the hands of a carefully selected group of Fellows who specialize in the area of criminal law. We are confident that in its report the Committee will make a strong contribution to the ultimate resolution of this difficult problem.

On the civil side, I have established a Committee under the chairmanship of Gregory Joseph of New York to explore all aspects of the future of the civil trial in the light of the apparently sharply reduced utilization of this our most traditional method of dispute resolution and a process which is at the heart of the existence of the College. The Committee's study will address the causes of the phenomenon, the impact on the profession and how it is to maintain and develop trial skills if this trend continues unabated. Hopefully this study will enable the College to focus on initiatives which might be developed to preserve and enhance our values, not only in terms of trial skills, but more fundamentally as part of a process of preservation of the civil jury trial as a vital societal institution. It would be difficult to overstate the importance of this subject.

Finally, I have asked David Larson of San Francisco to chair a Committee to consider our traditional publication, *The Bulletin*, in which this message appears. *The Bulletin* which is in large measure the energetic product in partnership of Past President Ozzie Ayscue and its editor, Marion A. Ellis, has served the College extremely well. In terms of content and style it has improved with every succeeding issue. Nonetheless, there remains an important question as to whether we should invest more in our publication by

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FIRST CANADIAN PRESIDENT

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including the professional and institutional views of the Fellowship to a greater extent, the publication of Committee papers, monographs and reports and whether it should become an opinion piece. Initial soundings would suggest that there is little appetite for a Law Review as such, nonetheless the question remains how we can develop our publication in such a way as to make it an even more effective instrument for communicating information about the College's activities and the views of the Fellows. Added to these questions is the whole issue of our website which we are in the course of improving. To what extent should it represent our communication instrument of choice and how should these vehicles relate to one another in the future? I regard these issues as being of great importance because the effectiveness of our communication modes is a reflection of our morale as an institution. I urge all of you to consider these questions and if you have your own ideas, to share them with the Committee through its Chair, David Larson. *The Bulletin* is yours and how we develop it should be a reasonable reflection of your views.

A word about local projects. In the last few years, as a result of extensive reflection, the leadership of the College has determined that so long as we claim to represent the very best of the trial bar, we must demonstrate our professional responsibility by sharing our experience and skills with law students, less experienced lawyers and the judiciary. This means local projects. As Alison and I travel across North America, this is the message in each and every State and Province. The Fellows, particularly new Inductees, are urged to design or adopt a project or projects which will become your particular State or Province's signature and will transmit your skill and knowledge to others who need it most. A by-product of these initiatives is of course the continued enhancement of the reputation of the College and the involvement of the Fellows at the local level. The College has excellent materials which are readily

available for the teaching of trial skills to public interest lawyers. Shortly, similar packages will be available in the form of problems in professional ethics for presentation to law students and problem solving materials for use in association with the utilization of the Code of Trial Conduct.

The trial skills program in particular has been highly successful. It has been presented in over ten States and Provinces and its implementation has been accelerated under the leadership of Richard Zielinski of Boston and his Committee on the Teaching of Trial and Appellate Advocacy. To provide some flavour, one example is worth mentioning. In Richmond, Virginia, last year, Michael Smith, the State Chair, organized a highly successful seminar for the teaching of trial skills to public interest lawyers. This year as a follow-on, Mike plans to supplement the program by the presentation of a demonstration of a selection of these skills for the same group of public interest lawyers involving four distinguished Fellows of the College before a jury made up of high school students. The College is indebted to Mike for his efforts and those of his Committee. The Virginia example should provide other States and Provinces which have not yet embarked on a project to follow Mike's lead or, alternatively, develop programs best suited for their own local needs.

This report would not be complete without commenting favourably upon the enormous task that has been undertaken by Sylvia Walbolt and the Access to Justice Committee. There are now Access Subcommittees in virtually all of the States and Provinces across the continent and the work of offering the services of Fellows of the College in suitable *pro bono* projects is going ahead vigorously with great credit to the Fellows involved, the Committee itself, and the College at large.

As trial lawyers, our lives are drawn into intimate engagement with the affairs of an extraordinary cross-section of society. Multiply our experience many times and one has the profile of the College from which we derive such pleasure. In travelling across

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North America in the discharge of my duties as your President, I am overwhelmed with pride, not only in our great profession and the public service which its members undertake at every turn but, more particularly, with the College and its reputation for excellence of trial skills, professionalism and collegiality. Our carefully crafted method of inviting the

leadership of the Bar to join our ranks, identifying as this process does the very best of the trial Bar who have in every case met our stringent tests of integrity, skill and collegiality, is evidenced in the Fellows we meet on every visit. Alison and I are constantly reminded of the privilege we enjoy as your representatives and we are determined to strengthen the great tradition of personal friendship which the College personifies. ♦

DAVID SCOTT DAY DECLARED

February 4 was declared David Scott Day in the City of Ottawa by Mayor Bob Chiarelli in honor of Scott's installation as President of the American College of Trial Lawyers.

IN MEMORIAM

The College has been notified of the deaths of the following Fellows:

Charles F. Bagley, Jr., Huntington, West Virginia; John Roderick Barr, Q. C., St. Catharines, Ontario; Wilburn Brewer, Jr., Columbia, South Carolina; Bitner Browne, Springfield, Ohio; Alex M. Byler, Pendleton, Oregon; Ralph S. Carrigan, Houston, Texas; Julian D. Clarkson, Sarasota, Florida; David R. Cobb, Lubbock, Texas; Richard P. Condit, Bloomfield Hills, Michigan; Thomas E. Dwyer, Sr., Needham, Massachusetts; Richard T. Earle, Jr., St. Petersburg, Florida; Samuel C. Gainsburgh, New Orleans, Louisiana; Dan E. Hedin, San Diego, California; Hon. William A. Ingram, San Jose, California; Alston Jennings, Little Rock, Arkansas; Arthur P. Kalleres, Indianapolis, Indiana; John Lansdale, Jr., Newtown Square, Pennsylvania; Edward F. McKie, Jr., Washington,

District of Columbia; James Robert Miller, Rockville, Maryland; George H. Moss, Jr., Vero Beach, Florida; John W. Netterblad, San Diego, California; Louis J. Pantages, Livingston, New Jersey; Daniel S. Pearson, Miami, Florida; J. Hardin Peterson, Jr., Tallahassee, Florida; Louis L. Ramsay, Jr., Pine Bluff, Arkansas; William K. Ris, Denver, Colorado; Doyle Watson, Drumright, Oklahoma; Erskine W. Wells, Jackson, Mississippi; Patrick A. Williams, Tulsa, Oklahoma; Harold R. Woodard, Indianapolis, Indiana; George F. Woodliff, Jackson, Mississippi.

♦ ♦ ♦

(As *The Bulletin* was going to press we received notice of the death on January 19 of Alston Jennings of Little Rock, Arkansas, who was President of the College in 1981-82. We will include a memorial to Mr. Jennings in a later issue.) ♦

BON MOTS

(Continued from page 15)

♦ ♦ ♦

I want to say a word about our Mayor.... He's quite an extraordinary individual. How many mayors in North America, how many places can brag that we have this extraordinary quality of life, and if you read the *Montreal Gazette* this morning, it's on the cover page, the story of the Mayor of Montreal who stopped his car to go to the rescue of a person who was being mugged. (By the way, it's the only mugging we have had this year.) Now you can brag that you probably created Clark Kent. We *have* him.

The Honourable Jean Charest, Premier of Quebec

♦ ♦ ♦

I want to thank you for those very kind words of introduction, but in order that the audience understand who is the real person standing before you, I have been obliged by my son to offer a riposte, a rebuttal, whenever I receive this kind of generous introduction, so that you will know the real person behind the mask of the *curriculum vitae*. In order to share this with you, I have to make full disclosure at the outset. I happen to be technologically illiterate. I don't know, regrettably, how emails work, how computers work, even how videos work, which I think today is probably an exercise in malpractice for a lawyer. In any case, my son, who has a prescient sense about this, when he was even about two and one-half years of age, came to me at the time ... with that mischievous grin on his face that had become his trademark, and he said, "Daddy, can you help me fix the video?" And I said to him, "Well, Johnny, you know I don't know how to fix the video." And he said to me with that smile on his face, "I know, Daddy. All I'm asking you to do is to pick me up, because I can't

reach it." Later that day my daughter came to me, and she said, "You know what Johnny told me?" And I said, "No." And she said, "Gila, Daddy may be a nice man, but he's not very smart. He's just not very smart."

Dr. Irwin Cotler, Member of the Canadian Parliament

♦ ♦ ♦

Fast-forward to four years ago, he [John] was 12 and I was 69 and had then been nominated to be a Liberal member of Parliament and a riding [district] not far from here. And on the night of the nomination a journalist came over to him and said, "What do you think of your dad running for Parliament?" And he answered as follows, as printed on the front page of the newspaper the next day, "I think my dad's crazy," he said. "He's a law professor; he's a human rights lawyer, that I can understand. Why does he want to go into Parliament for? Nothing ever happens there. They don't do anything. It's a gridlock, and if anything, some of them become corrupt, and there's a Monica Lewinsky waiting around the corner." Six weeks later, ... I happened to receive 92% of the vote in what is the safest riding in the country. This journalist calls him up and said, "Well, what do you think of your dad now? He received 92% of the vote." And he said, "*Donald Duck* running in this riding for Liberals would have gotten 92% of the vote. Now, if my dad lost, that would have been a *real* story."

Dr. Irwin Cotler, Member of the Canadian Parliament

♦ ♦ ♦

Initially, when I was contacted by David Scott, I didn't think I would be able to make it. And then Ozzie Ayscue wrote me a very persuasive letter. Basically, he said, "Do you believe in free speech?" And I said, "Well,

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BON MOTS

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of course I do.” He said, “Well, you are going to come to Montreal and you’re going to give one.” So here I am.

*Professor Kathleen J. Reichs,
Forensic Anthropologist*

♦ ♦ ♦

Michael [Baden] and I got out there. This was an attorney we were exhuming. He had been shot, and the family thought it was probably a murder, rather than a suicide. I remember we got out there, and the tombstone said, “Here lies an attorney and an honest man.” And Michael turned to me and said, “Wait a minute, nobody told me we had to dig two guys up.” I will try to offend everybody today: I looked over at the tombstone next to this one, and it said, “Here lies an atheist, all dressed up and nowhere to go.”

*Professor Kathleen J. Reichs,
Forensic Anthropologist*

♦ ♦ ♦

[T]he first thing I look at [on an exhumed body] is gender. These are useful areas of the body. The female pelvis has to accomplish things the male pelvis couldn’t dream of in a hundred lifetimes, and therefore there are differences in shape. Also, if you look at the skull there are differences in the male skull. The male has bigger brow ridges. The male has bigger muscle attachment areas. You see that little knob at the back of the skull is bigger in the male. The male of the species often has bigger ideas as well, but these rarely survive the decomposition process.

*Professor Kathleen J. Reichs,
Forensic Anthropologist*

♦ ♦ ♦

Reflecting his no-nonsense approach to litigants in one case he imposed sanctions on the lawyer who had not only filed a frivolous order to show cause, but filed it on December 23rd, returnable on December 26th. In the words of Judge Martin, “Dante should have reserved a special place in hell for lawyers who file unwarranted orders to show cause on the eve of a holiday. Since such a divine sanction is not immediately available, the court will impose sanctions under 28 U.S.C. Section 1927.”

*Past President Robert D. Fiske, Jr. Introducing
Retired United States District Judge John S.
Martin, Jr., JFACTL*

♦ ♦ ♦

New York can be a daunting place. They say in New York, “If you want sympathy, you move.”

*Regent Gregory P. Joseph, New York,
New York*

♦ ♦ ♦

I told one of Justice Arbour’s colleagues on the Court, Justice Jack Major, that I had sought the advice of president-elect Scott to be sure that I was correctly pronouncing the name of Justice Arbour. Justice Major told me that the lawyers and judges of Canada rely heavily upon David Scott for many things, but the French language is not one of them. He said, “Warren Lightfoot does a much better job, and Warren is from Birmingham, Alabama.” Now, you understand, that I was talking to Justice Major the night *before* he heard Warren Lightfoot speak French as he was presiding over the program yesterday morning.

Past President Gene Lafitte

♦ ♦ ♦

I know that you believe, as I do, that it is always bad form for a judge to try and embar-

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BON MOTS

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ness a lawyer. I have found, in fact, that lawyers can be trusted to do that entirely on their own.

Associate Justice Louise Arbour

♦ ♦ ♦

[T]he good part about the Red Sox losing is that it controls our arrogance in Boston. The bad part about it is, it just goes on and on.

Past President Michael E. Mone

♦ ♦ ♦

I enjoyed listening to the introductions that were presented this morning, but none of them was as good as the one I heard recently. You see, I was to be the keynote speaker at a rather significant meeting, and the person who was to give the introduction of me didn't show up. So I gave my own. It was truly the finest one I've ever heard. It was somewhat lengthy, but just splendid, and I wish all of you had been there to hear it. It was wonderful.

Past President Andrew M. Coates

♦ ♦ ♦

Lawyers once boasted, quoting Lord Coke, that law itself is the perfection of reason. I am sure that you all know that hardly anyone else in America believes this except lawyers. In Andrew Jackson's day, one critic of lawyers responded that law is the perfection of reason in the same way that alcohol is the perfection of sugar.

Professor Harry F. "Rick" Tepker, University of Oklahoma Law School

♦ ♦ ♦

When I announced my retirement after 19 years on the bench, I received a number of letters from colleagues across the country, one of which was from the Chief Justice of Nova Scotia, Joe Kennedy. It was very short and said, "Pierre, I thought you might have a future as a judge. Now we'll never know."

*Honourable Pierre A. Michaud, Q.C.,
Former Chief Justice of Quebec*

♦ ♦ ♦

Joe Kennedy, the Chief Justice of Nova Scotia, was presiding over civil trials in Halifax. The first case on the list involved a self-represented plaintiff by the name of Smith. Mr. Smith was standing at the back of the room, and Joe Kennedy asked him, "Mr. Smith, we'll now hear your case. Will you please come forward?" And the man stayed behind and did not move. Joe said, "Mr. Smith, we're now going to hear your case. Please come forward." The man said, "I'm not Mr. Smith. Don't you know who I am?" Joe said, "Who are you?" He said, "I am the son of God." So Joe said, "Oh, I'm sorry to hear that. I'll have to recuse myself because I think we're related."

*Honorable Pierre A. Michaud, Q.C., Former
Chief Justice of Quebec*

♦ ♦ ♦

Having spent the last two decades on the bench, I thought I would talk to you this morning about judicial intemperance.... I discussed that idea with one of your Montreal members, who shall remain anonymous, but whose judgment in these matters is renowned. He advised me to avoid that subject entirely. He said, "Pierre, when you mention the word intemperance, lawyers always think of the bar, and as you know, an alcoholic is someone you don't like who drinks as much as you."♦

*Honorable Pierre A. Michaud, Q.C., Former
Chief Justice of Quebec*

♦ ♦ ♦

The Bulletin

of the

American College of Trial Lawyers

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STATEMENT OF PURPOSE

The American College of Trial Lawyers, founded in 1950, is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and those whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Lawyers must have a minimum of 15 years' experience before they can be considered for Fellowship. Membership in the College cannot exceed 1% of the total lawyer population of any state or province. Fellows are carefully selected from among those who represent plaintiffs and those who represent defendants in civil cases; those who prosecute and those who defend persons accused of crime. The College is thus able to speak with a balanced voice on important issues affecting the administration of justice. The College strives to improve and elevate the standards of trial practice, the administration of justice and the ethics of the trial profession.



"In this select circle, we find pleasure and charm in the illustrious company of our contemporaries and take the keenest delight in exalting our friendships."

—Hon. Emil Gumpert,
Chancellor-Founder, ACTL