



THE BULLETIN

PRESIDENT-ELECT COOPER: COLLEGE IS ON COURSE

When asked about his approach to succeeding President Jimmy Morris at the Annual Meeting in Chicago, President-Elect Michael A. Cooper responded: “First, do no harm,” echoing the advice Hippocrates gave fledgling doctors about 2,400 years ago.



MICHAEL A. COOPER AND HIS WIFE, NAN, AT A PARK OUTSIDE BRIGHTON, ENGLAND.

“There are some subjects I care about more than others,” Cooper said, “but I think it would be unwise for two reasons to establish a rigid agenda for my year as President. First, I believe the College as an institution is fundamentally on the right course. We must increase our efforts in some areas and modify them in others. But no radical change is required. Second, whatever agenda I set today will almost certainly have to be revised during the next year as new problems affecting the profession and the administration of justice arise and existing problems worsen or are resolved.”

of Regents highly qualified candidates for election to Fellowship and to engage in worthwhile projects such as recruiting Fellows to serve as judges for the College-sponsored trial and appellate moot court competitions.

As for the professional work of the College, Cooper said he will try to build on the College’s accomplishments in recent years. “We have a large cadre of Fellows who are highly talented and dedicated to the College’s mission, and their collective efforts have given the College an enviable reputation.”

Cooper believes the College is on track with its goal of providing a collegial and stimulating environment for the finest trial lawyers in the United States and Canada. The State and Province Committees are increasingly active and continue to seek out and recommend to the Board

COOPER, con’t on page 6

CHICAGO MEETING SET

Richard Goldstone, former Justice of the South Africa Constitutional Court and War Crimes Prosecutor in the former Yugoslavia and Rwanda, heads a list of distinguished speakers and guests at the Annual Meeting Oct. 20-23 at the Marriott Hotel in Chicago.

Others include Professor Robert Mnookin of Harvard Law School, who will discuss his efforts to bring together the disparate factions to form a common position in negotiations with the Palestinians, and Joseph Margulies, who has been one of the leading lawyers representing detainees at Guantanamo Bay.

Madame Justice Marie Deschamps of the Supreme Court of Canada will be awarded an Honorary Fellowship.

The first of the new Emil Gumpert Awards will be presented to Dakota Plains Legal Services.

The professional program, “Electronic Spoliation and Sanctions: Is the Sizzle Consuming the Steak?”, will be moderated by Regent Greg Joseph. Panelists will consist of U.S. District Judge Shira Scheindlin

and Fellows Dan Webb and Jerold Solovy. The program will qualify for CLE credit.

Mary Robinson, the current United Nations High Commissioner for Human Rights and former President of Ireland was scheduled to speak, but is unable to appear.

FELLOWS ARE URGED TO MAKE RESERVATIONS WELL IN ADVANCE FOR THE UPCOMING NATIONAL MEETINGS SINCE SPACE IS LIMITED.

The **Spring 2006 Meeting** will take place April 6-9, 2006 at the Westin Diplomat Resort and Spa in Hollywood, Florida.

FOR FUTURE PLANNING, THE NATIONAL MEETINGS ARE SCHEDULED FOR THE FOLLOWING DATES:

- 2006 Annual Meeting**, London, England, Sept. 14-17, followed by a meeting extension, Sept. 18-20 in Dublin, Ireland
- Spring 2007 Meeting**, La Quinta, California, March 8-11
- 2007 Annual Meeting**, Denver, Colorado, Oct. 11-14
- 2008 Annual Meeting**, Toronto, Canada, Sep. 25-28
- 2010 Annual Meeting**, San Diego, California, Oct. 14-17.

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A current calendar of College events is posted on the college website at www.actl.com, as are a current compendium of the ongoing projects of the College’s National Committees.

AMERICAN COLLEGE OF TRIAL LAWYERS
THE BULLETIN

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(1895-1982)

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FROM THE
EDITORIAL BOARD

Bulletin Considers Adding New Features

The addition in the last issue of the *Bulletin* of brief biographical notes about those Fellows who had died in lieu of the simple listing of their names, as had been our previous custom, has been universally warmly received.

The rich and varied lives reflected in those notes and the reception they received prompted the members of the Board of Editors to ask ourselves why we need to wait to celebrate the lives and careers of at least some of those in our ranks until they are no longer among us.

Almost by definition, given our membership criteria, every member of the College is worthy of celebration. But with over 5,000 active, emeritus, judicial and honorary fellows, we cannot, of course, profile every member. Professional accomplishments and the recognition those accomplishments have merited are typical of most all of our Fellows, and we note them as they come to our attention.

We would like, in addition, from time to time also to hold up particular Fellows as examples from among us, not so much for their professional accomplishments as for the things that make their lives unusual and that set them apart.

We have begun this experiment in this issue by profiling Michael A. Cardozo, who left the private practice to become Corporation Counsel to the City of New York.

We would like to consider profiling as a group in a future issue those among us who were members of what has been labeled "The Greatest Generation," those who interrupted their schooling or left their civilian employment to serve in the armed forces in World War II. (We may use as a model the project of former Regent Thomas D. Burns of Boston, who collected and published the wartime service recollections of all his classmates at Phillips Andover

whose educations were interrupted by that war, some of whom had not previously talked about their experiences.)

We would also like to know if there were any Fellows, living or dead, who represented captured German, Japanese or Italian soldiers in legal proceedings during that war.

We would also like to know about any Fellow whom other Fellows believe might make an interesting subject for a *Bulletin* profile.

Obviously, we need your help to do this. If each State and Province chair will undertake to have someone send us a list of the Fellows, living or dead, who were World War II veterans, we will take it from there. And if every Fellow will assume as a personal obligation making sure that those lists are complete and suggesting Fellows or groups of Fellows you think we might consider profiling in a future issue, we can make your *Bulletin*—and it is your *Bulletin*—more meaningful to all of us.

The *Bulletin* staff was able to compile the notes of those who had died for the last issue because in every case, the State or Province chair who notified the College office of the Fellow's passing sent along a copy of the deceased Fellow's obituary. In some cases, we were able to supplement that with information gathered from the internet.

In the current issue, we have the names of a number of Fellows of whose deaths the College became aware only through responses to the annual address update request made as a part of updating the College's annual published roster. Unfortunately, we do not have sufficient information to do more than note their passing. If we hereafter receive from one of you a copy of the obituaries of any of them, we will cure that omission.

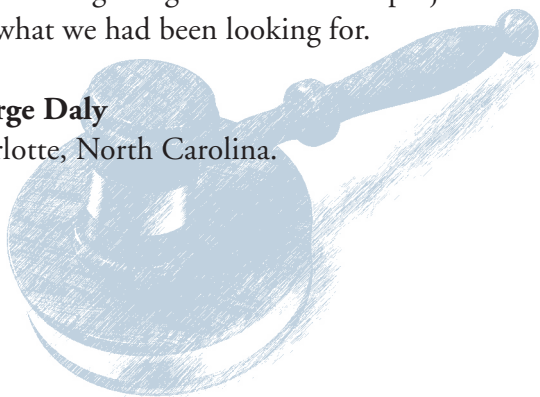
And if you will see to it that your State or Province chair is supplied promptly with a copy of the obituary of any Fellow who dies, we can publish appropriate notes of his or her passing in a timely manner.

AS ALWAYS, WE APPRECIATE YOUR CONSTRUCTIVE COMMENTS AND SUGGESTIONS, EITHER BY EMAIL OR "SNAIL MAIL."

LETTERS TO THE EDITORIAL BOARD

Jeff Davis of Charlotte and I are now representing Mazin Salih Al-Harbi, a detainee at Guantanamo. Thanks for the notice in your recent issue on how to go about getting involved in this project. It was just what we had been looking for.

George Daly
Charlotte, North Carolina.



COLLEGE RESPONDS TO HURRICANE RELIEF EFFORT

The College has responded to the devastation caused by Hurricane Katrina by encouraging Fellows to contribute to the relief effort. In addition, the College has established a website for those Fellows who have been affected by the tragedy at www.actl.relief.blogspot.com so that other Fellows may learn their status.

The College's National Office is serving as a clearinghouse for Fellows who would like to volunteer services. If you have office space, housing, support staff and/or other services you are willing to offer to Fellows in order to reestablish their practices, please contact the National Office.

CODES DISTRIBUTED TO JUDGES

Supported by a grant from the Foundation, the College has distributed the United States and Canadian versions of the Code of Trial Conduct and the Code of Pretrial Conduct to the respective judiciary of those countries.

Copies of the Canadian Codes were mailed to all the Federal, Superior and Provincial Judges in Canada, as well as to the Canadian Supreme Court. Accompanying the Codes were letters from President Jimmy Morris and Canadian Chief Justice Beverley McLachlin, an Honorary Fellow, along with a complete listing of the Canadian Fellows. The College collaborated with the National Judicial Institute to accomplish the mailing of over 2,400 copies of the Canadian Codes.

In the United States, working through the National Center for State Courts and our State Chairs, the College obtained mailing labels for state court judges. Copies of the Codes, accompanied by separate letters from President Morris and Wisconsin Chief Justice Shirley Abrahamson, chair of both the National Conference of Chief Justices and the National Center for State Courts, were sent to all judges of courts of record in the United States. The mailing in each state was accompanied by a list of both the State Committee and the Fellows in that state and a description of the Statement of Goals and Purposes of the College.

The Codes were distributed to the Federal judiciary in the United States last year, so that the number distributed to the judiciary exceeds 16,000.

In addition, the College has had the Codes posted or hyperlinked on the websites of Bar Associations and other legal organizations. These efforts are a joint project of the Professionalism Committee, chaired by Allen G. Greer of Miami, Florida and the Relations with the Judiciary Committee, chaired by Philip J. Kessler of Detroit, Michigan.

CODE PUBLISHED IN FIFTIES

The original Code of Trial Conduct, published in the Fifties, was the College's first effort to expand its influence and to make a contribution to lawyers outside its own membership. The revision of the original Code in the 1990s, the later creation of the Code of Pretrial Conduct and of analogous Codes adapted to Canadian procedure and the publication of these Codes and their distribution to the judiciary of both countries continues the College's tradition of service to the profession.

LEWIS F. POWELL, JR. LECTURE SERIES

NOW AVAILABLE

All six Lewis F. Powell, Jr. Lectures are now available through the College's Website at www.actl.com:

A Brief Review of the History of the ACTL and its Accomplishments by Powell himself;

The Art of Judicial Selection by Professor John J. Jeffries;

His Contributions to Our National Security by Hon. William H. Webster;

Mr. Justice Powell and the Doctrine of Precedent by the Hon. Richard S. Arnold and untitled papers by the Hon. J. Harvie Wilkinson, III, and Associate Justice Sandra Day O'Connor.

He then proceeded to list several examples of successful projects, including the Access to Justice Committee's recruitment of Fellows to represent Guantanamo Bay detainees, the Committee on the Teaching of Trial and Appellate Advocacy's words skills training programs for public interest lawyers and the College's continuing efforts to fight erosion of respect for the independence of the judiciary and the rule of law.

Cooper intends to review the General Committee structure of the College to determine "whether additional committees should be created or existing committees combined and whether some committee mandates require revision." And he pledges to continue the efforts of his predecessors to enable the College to respond more quickly and effectively to threats to the independence of the judiciary.

"We have an exclusive privilege to practice a learned profession," Cooper observed, "and with that privilege comes an obligation to make our skills available to people who are less fortunate and to work to improve the administration of justice," Cooper said. "In the past year the willingness to take on unpopular representations has been demonstrated by the number of Fellows, including myself, who have volunteered to represent Guantanamo detainees in habeas corpus proceedings. That is not a universally admired representation."

The College has begun working more closely with the state and federal judiciary in a variety of areas, such as training programs for judges, Cooper said. "We have established a channel of communication with the National Center for State Courts and the Conference of Chief Justices. And we have taken the first steps to establish a similar ongoing collaborative relationship with the Federal Judiciary Center."

Cooper was the only child of a solo practitioner lawyer in Union City, New Jersey. "Frequently on weekends he would take me down to his office, and I must have absorbed some of the atmosphere of

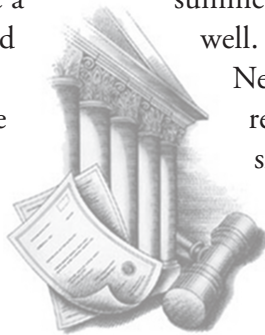
being a lawyer." Cooper's father never went to college, finished law school when he was 19 and had to work as a process server for two years until he was old enough to be admitted to the bar.

From the age of eleven, Cooper commuted each day from his home in Palisade, New Jersey, to the Horace Mann School in New York City. He graduated from Harvard College in 1957. After considering becoming a history professor, he decided to attend Harvard Law School. He believes that the strain of being a solo practitioner contributed to his father's fatal heart attack at age 54. "I was in my first year of law school, and I vowed I was not going to try to do everything myself, but rather would join a law firm."

He spent the summer after his first year of law school with a small firm in New Jersey and the summer after his second year at Sullivan & Cromwell. When he was selecting firms to interview in New York City, "Sullivan and Cromwell had a reputation for being conservative and 'white shoe'," Cooper said. "It had been headed by John Foster Dulles for many years before he became Secretary of State, and I was an Adlai Stevenson Democrat, so I didn't think I would fit in. I came to the firm for my first interview because I wanted what some call a 'stress' interview. I figured if I could get by that one, I could handle any others."

But Cooper was interviewed by John Dooling, another Harvard Law graduate and "a man who completely confounded the stereotype of the firm." Dooling was the opposite of the stuffy, aloof type Cooper had expected. He interviewed at other firms, but found himself drawn to Sullivan and Cromwell, primarily because of Dooling, who later became a federal judge. "Over the years the firm has come to remind me of the College," Cooper said. "You get here on merit, not because you have the right pedigree or connections."

Cooper's first big case was the New York Port Authority condemnation of the land and buildings on which the World Trade Center was built. The case



lasted six years and afforded Cooper the rare opportunity to participate in a proceeding in the original jurisdiction of the United States Supreme Court. His first impression of the College, into which he was inducted in 1977 at the age of 41, was of “giants of the profession,” legal luminaries such as Whitney North Seymour of New York and Robert W. Meserve of Boston, both Past Presidents of the College. Cooper also liked meeting other top trial lawyers from all around the nation and soon formed fast friendships with some of them. “It wasn’t that I had led an insular life,” he said. “I appeared in courts in other parts of the country. But there was a remarkable variety among the Fellows and a collegiality that I have always greatly enjoyed,” he said.

Cooper quickly became involved in College activities and was named chairman of the Downstate New York Committee in 1985. He was elected a Regent in 2000, Secretary in 2002 and Treasurer in 2003.

Cooper has been active in several legal organizations with particular emphasis on legal aid and pro bono work. He was President of the Legal Aid Society of New York City in 1981-83 and Co-Chair of the Lawyers’ Committee for Civil Rights Under

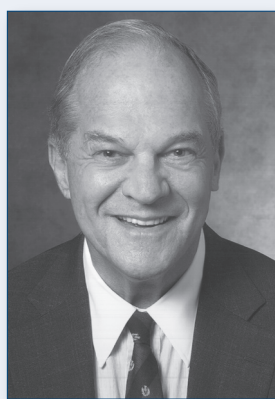
Law in 1993-95. In the organized bar, he served as President of the Association of the Bar of the City of New York from 1998 to 2000.

Personally, Cooper’s interests include such diverse pursuits as horseback riding, collecting prints and sculpture and attending the New York City Ballet, of which he is a director. “What intrigues me about ballet dancers is their combination of grace and athleticism,” he said. “These are world class athletes, but they also are capable of exquisitely graceful movement.”

Cooper takes both pleasure and pride in the archeological pursuits of his wife, Dr. Nan A. Rothschild of Barnard College, who is currently co-leader of a project to rediscover remnants of an African-American and Irish community that was condemned to make way for Central Park.

Cooper is looking forward to his year as president of the College. “I believe there is a future for an organization that celebrates and holds up as models the best of the trial bar, and one that makes its talents available to law students in competitions, to younger lawyers in mentoring programs and to judges and others grappling with challenges critical to the administration of justice.”

MICHAEL A. COOPER



Attended Horace Mann School, New York, New York; A.B. *magna cum laude* Harvard College, 1957; L.L.B. *cum laude* Harvard Law School, 1960; Sullivan & Cromwell: partner, 1968-2003; managing partner of the Litigation Group, March 1978-December 1985; coordinator of public service activities until January 1, 2001; Of Counsel, January 1, 2004-present. Association of the Bar of the City of New York, president 1998-2000. American Bar Association, member, Section on Individual Rights and Responsibilities, Antitrust Section, Litigation Section. Fellow, American Bar Foundation. New York State Bar Association, member, House of Delegates, 1991-92. New York County Lawyers’ Association, member, 1968-present. The Legal Aid Society, president, 1981-83. Chair, Pro Bono Net. Chair, Legal Services Project, appointed by New York’s Chief Judge to seek permanent funding for legal services, 1997. Co-Chair of Lawyers’ Committee for Civil Rights Under Law, 1993-95. Past President, the Harvard Law School Association of New York. Past Chair, the Harvard Law School Fund. Fellow, American College of Trial Lawyers (inducted 1977). Member, Board of Directors of the New York City Ballet, 1993-2001, 2002-.

PEGGY CLARE'S PHOTOS PROVIDE A COLLEGE ALBUM



PEGGY AND BOB CLARE

Peggy Clare, who spent her honeymoon as the new wife of the incoming president **Robert L. Clare, Jr.** in 1974, still looks upon the College as family. The couple had met when he, a widower, was in England as a delegate to the 1973 Anglo-American Exchange.

In an interview for the History Committee, Mrs. Clare recalls those first few days in Boca Raton with fond memories. “I remember vividly how we were met at the airport by Cody Fowler (President in 1952-53 and 1954-55), who presented me a huge bag of oranges,” she said.

The couple, who had been married in London just three days before, then checked into the hotel, and Clare informed his new wife that they were to host a cocktail party for the board members that evening in their suite.

“Needless to say everyone turned up to see what their incoming President had found in London,” Mrs. Clare said. “From then on, the College was like my family. The wives of the board members had done all the work on arrangements, a job I should have done if I had been there.”

An accomplished amateur photographer, Mrs. Clare began snapping pictures the next day and continued snapping them of College activities for the next twenty-plus years. They resulted in four thick albums of photos on file in the College offices at Irvine.

Her husband died in 2001, but Mrs. Clare has been able to attend several College meetings since then.

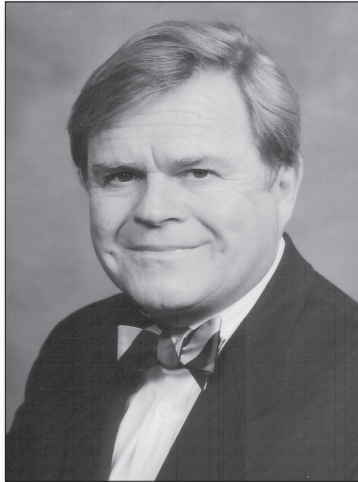
**YOU WILL FIND SEVERAL OF HER CLASSIC PHOTOS
REPRINTED THROUGHOUT THIS ISSUE OF *The Bulletin*.**

MY TRAVELS FIND THE COLLEGE IN EXCELLENT SHAPE

More than 60 years ago whenever I would wish that Christmas or summer vacation would “hurry up and get here,” my grandfather invariably would say, “Don’t wish your life away, son. When you reach my age, time will fly by.” Now, I have reached that age, and, despite Grandpa’s warnings, I was totally unprepared for the rapidity with which my year as President of our College has flashed by. With only a few weeks left in my term, I will use these pages to reflect upon some of what has happened in that blink of an eye.

To begin with, Jane and I have been honored to visit with the Fellows all over this continent, attending meetings in three Canadian provinces and 42 states and engaging with the Fellows from the remaining states and provinces through regional meetings. We have been welcomed and treated as family wherever we have traveled for which we thank one and all.

Between November 1, 2004 and the end of our 2005 Annual Meeting in Chicago, we will have attended 62 events in the name of the College and spent 152 days in attendance at those events or traveling to and from them. While this statement is plainly boastful, in mitigation I report that the President’s travel schedule has been by far the most popular subject of questions and discussion by Fellows during our travels. Furthermore, the recitation of the schedule should bolster my credibility when I say that the state of collegiality and fellowship of



JAMES W. MORRIS, III

our College is very high indeed, that there is a strong commitment to the lofty purposes and goals of the College and that the Fellows, individually and collectively, actively devote their talent and untold hours to a broad range of activities consistent with those goals and purposes.

We now have more than 5,600 Fellows and more than 60 state and province committees who continue to ensure that we limit our fellowship to only the most “outstanding” and collegial trial lawyers, and who are engaged in a wide range of valuable “local” activities. We have 35 general and special committees charged with a broad array of significant contributions to improving the standards of trial practice, the administration of justice, and the ethics of the profession,” as well as enhancing the joy and collegiality of fellowship. At present, 1,600 Fellows are active members on one committee or another and thousands, if not all, attend state, province, regional and/or national meetings of the College.

Dennis Maggi and his excellent staff continue to serve us well. They are dedicated professionals who take pride in their association with the College. One of the pleasures of this year has been the opportunity to get to know better Dennis, Michele and their three wonderful girls, Katie, Jennifer and Lauren.

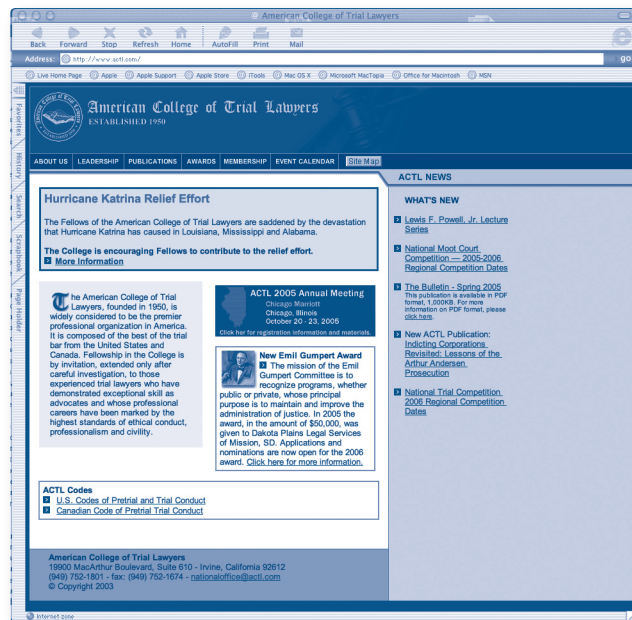
A New Website

A "new" website at www.actl.com is up and running. We will soon have a "public" and "private" (Fellows-only) side. On the public side will be all that is available now, plus a listing of Fellows and their firms by state, province and city. On the private side, the full contents of the Blue Book, including your addresses, telephone numbers and email addresses, soon will be accessible, as will registration on line for our national meetings and, perhaps, regional meetings. Interactive committee sites and chat rooms lie in the future.

Because of the website, we were able to address the concerns about our Fellows in the path of Hurricane Katrina. Under the direction of Secretary Mike Stout, co-chaired by Regent Ed Mullins, a disaster relief committee was able to establish two locations on the website where news or our 250 Fellows in the affected area could be exchanged and offers of assistance could be matched with requests for aid. In further response to Katrina, Stu Shanor's and my requests for special contributions to the Foundation have received a heartwarming response. The Disaster Relief Committee is in contact with state committees and Fellows in the affected area, as well as with other organizations, seeking to provide recommendations to the Foundation to assure the most appropriate use of these funds.

Under the direction of Ozzie Ayscue, our Bulletin continues to improve and, along with the website, constitutes a method of communication with and among our Fellows, an essential ingredient to the viability of our College and our ability to achieve our goals and purposes. The ever increasing use of email to and among the committees and the fellowship at large is another important element of our communication network.

The Outreach Committee, under the direction of Liz Mulvey, has made a preliminary report, and by the time of the 2005 Annual Meeting will have presented its recommendation regarding the public face of the College and our relations with those important to the achievement of our goals and



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purposes. We seek to respond to the criticism that the College is no longer as well known in the states and provinces as it should be, that the College is often confused with other organizations, that "trial lawyer" had become a pejorative and that the media fails to turn to the College, indeed ignores us, when addressing issues related to the justice system.

We have responded to challenges to the independence of the judiciary and will continue to do so. The Judiciary Committee, under Dudley Oldham, has drafted a White Paper, which will be given broad distribution, addressing threats to the independence of the judiciary and the adverse effect on public respect for the justice system. The Judiciary Committee also is offering comments on the ABA Model Code of Judicial Conduct. The College has addressed inappropriate threats of impeachment or intimidation by members of Congress, most recently in the *Shavio* case and in the intervention by a congressman in a pending criminal matter in the 8th Circuit.

Through the Executive Committee, the Judiciary Committee, the Special Problems in the Administration of Justice Committee (Chair Joe Parker of Cincinnati), the Jury Committee (Chair Walt Sinclair, Boise), the Ad Hoc Relationship with the

Judiciary Committee (Chair Phil Kessler, Detroit) and others, we have enhanced our relationship with federal, state and provincial judiciary through frequent interaction with the Federal Judicial Center, the National Center for State Courts and the Canadian National Judicial Institute, among others, working with them in such matters as distribution of our Codes of Pretrial and Trial Conduct to the judiciary of both Canada and the U.S., in support of enhanced security for courts and judges, and in support of the proper funding of the judicial branch. We continue to encourage the involvement by Judicial Fellows, as well as others, in public service, by reducing the expense of attending national meetings for them, by asking them to serve on more committees and by supporting a Judicial Fellows luncheon at the Annual Meeting.

The College's public condemnation in September 2004 of the mandatory sentencing guidelines of the U.S. Federal system, a severe limitation on judicial discretion, bore fruit this year in the *Book/Fan, Fan* decisions.

We continue to oppose unfair criticism of the judiciary and the jury system and to uphold the fundamental constitutional principle of separation of powers among the three branches of government. To that end, we are forming a special committee of

Fellows to develop a White Paper to comprehensively address the history and present importance of the separation of powers doctrine and the independence of the judiciary as a reference to Fellows, the media and the public.

\$10,000 Essay Prize Being Offered

To encourage greater appreciation of these cornerstones to our way of life, the Executive Committee will recommend that the College sponsor a contest among law students with a \$10,000 first prize for the best paper in support of the importance of separation of powers and the independence of the judiciary.

Under the direction of Chairman Joe Steinfield, the redirected Emil Gumpert Committee received applications from 46 worthy organizations for the College's Award for Excellence in Improving the Administration of Justice. These applications were examined in exhaustive detail, including personal interviews and visits to offices and areas of operation, before the selection of the Dakota Plains Legal Services for its work improving the administration of justice in the tribal courts, particularly for those required to proceed *pro se*. The Board endorsed the recommendation and in August of this year, Joe Steinfield, several members of his Committee,

PRESIDENT'S REPORT, con't on page 26



PEGGY CLARE PHOTO:

Bob Clare with Founder Emil Gumpert

ARTHUR ANDERSEN PROSECUTION IS SUBJECT OF NEW COLLEGE PAPER

WISDOM OF CRIMINAL CONVICTION OF BUSINESS ENTITY FOR WRONGDOING OF LOW-LEVEL EMPLOYEES QUESTIONED

The College's latest contribution to the literature on current issues in the administration of justice, a paper entitled *Indicting Corporations Revisited: Lessons of the Arthur Andersen Prosecution*, has been approved by the Regents and posted on the College website.

Produced by the Federal Criminal Procedure committee under the leadership of Elizabeth K. Ainsle of Philadelphia, who was also the principal author, the paper explores the indictment, trial and conviction of Andersen, a national accounting firm, for the shredding of documents by employees in connection with the investigation of Andersen's accounting client, Enron. The conviction and the debarment of the firm from practice before the Securities and Exchange Commission inevitably led to the firm's swift demise. In the course of a year, an accounting firm that had employed 85,000 people in approximately 390 offices in 85 countries had been reduced to 3,000 employees.

The paper explores the history of the criminal prosecution of corporations in the federal courts of the United States and raises the question whether the rationale on which the United States Supreme Court approved such prosecutions ninety-six years ago is still valid.

It goes on to examine the validity of the usual justification for criminal punishment as applied to a corporation, at least where the wrongdoing is in-

dividual and not corporate, the availability of other more efficient means for deterring and punishing corporate misconduct and the proportionality of the mandatory penalties attendant to criminal conviction of a corporation.

The paper concludes by urging that the federal courts revisit the issue of prosecuting business organizations and develop uniform jury instructions limiting the circumstances under which convictions may be had. An appendix to the paper suggests the text of such an instruction.

Other appendices include surveys of the law governing the criminal prosecution of business entities in the various United States and the countries of western Europe, making the paper a valuable source of information and thought for lawyers engaged in the representation of corporations being investigated for allegedly criminal conduct.

The United States Supreme Court has since reversed the conviction because of a faulty jury instruction unrelated to the subject of this paper, giving Andersen, which by that time no longer existed, a new trial. The timeliness of the subject matter of this paper has been underlined recently by the apparent decision of the Department of Justice of the United States not to prosecute another of the few remaining international accounting firms, KPMG, in connection with the investigation of allegedly abusive tax shelters.

FELLOWS TO THE BENCH

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

C. D. O'Brien

Court of Appeal of Alberta, Canada,

T. David Little

Superior Court of Justice, London, Ontario

50 YEARS AGO

Six current members of the College roster were inducted in 1955:

A. Donald MacKinnon of New York City **Wal-**

ter M. Bjork of Scottsdale, Arizona

Bert M. Goldwater of Reno, Nevada

Joseph E. Stopher of Louisville, Kentucky **Whit-**

man Knapp of New York City

Philip H. Strubing of Memphis, Tennessee

AWARDS, HONORS AND ELECTIONS

WILLIAM R. DAVIS of Hartford, Connecticut has received the first Edward F. Hennessy Award of the Connecticut Bar Association. The award in the name of the late Fellow Hennessy is not given on an annual basis and honors a lawyer who was demonstrated exceptional professionalism and civility.

C. B. ROGERS of Atlanta is the recipient of the American Inns of Court 2005 A. Sherman Christensen Award given in the name of the founder of the first American Inn of Court. It honors a living member who has provided distinguished, exceptional and significant leadership to the movement.

HENRY (PETE) PUTZEL III of New York, New York (Second Circuit) and Past President (1998-99) **E. OSBORNE AYSCUE, JR.** of Charlotte (Fourth Circuit) have received American Inns of Court Professionalism Awards. Four of this year's seven awards went to Fellows of the College. Each year, on a federal circuit basis, the awards are given to lawyers "whose life and practice display sterling character and unquestioned integrity."

MARC SONNENFELD of Philadelphia has been elected to a second four-year term on the board of the American Inns of Court Foundation.

Past President (2003-04) **DAVID W. SCOTT** of Ottawa, Ontario will receive the Ontario Bar Association's second annual Award for Excellence in Civil Litigation in mid-October. Canada's Ambassador and Permanent Representative to the United Nations, Allan Rock, will deliver the keynote address.

PETER VAIRA of Philadelphia received The Distinguished Alumni of 2005 award from the Duquesne University Law Alumni Association. He was the first Duquesne Law graduate to be appointed by a President as United States Attorney and the first to be confirmed by the U.S. Senate.

SYLVIA H. WALBOLT of Tampa, Florida has received the 2005 William Reece Smith, Jr. Public Service Award from Stetson University College of Law. She also is the recipient of the 2005 James C. Adkins Award from the Appellate Practice Section of The Florida Bar.

Past President (1996-97) **ANDREW COATS** of Oklahoma City, Oklahoma has been selected for the Oklahoma Hall of Fame by the Oklahoma Heritage Association.

MATHIAS H. HECK, JR. of Dayton, Ohio is President-Elect of the National District Attorneys Association.

BRIAN P. CROSBY of Buffalo, New York has received an Honorary Doctor of Laws degree from Niagara University.

LOUIS R. PEPE of Hartford, Connecticut is the new president of the Connecticut Bar Association.

GEORGE D. HUNTER of Ottawa, Ontario has been elected by Benchers to lead the Law Society of Upper Canada as treasurer, its top elected official.

BENJAMIN R. CIVILETTI of Baltimore, Maryland has received the 2005 American Judicature Society's Justice Award. The award honors an individual or group that has made significant contributions to improving the administration of justice at the national level.

ELDON E. FALLON (JFACTL) of New Orleans has received the Herbert Harley Award for Louisiana from the American Judicature Society. Named for AJS founder Harley, the award honors individuals who have made outstanding contributions to improve the administration of justice in their states. Fallon also received the American Bar Association's Pursuit of Justice Award.

OFFICER AND REGENTS NOMINATIONS ANNOUNCED

TO BE VOTED ON AT ANNUAL MEETING

At the Annual Meeting in Chicago in October, the officers nominating committee will nominate the following Fellows to serve as officers of the College for the coming year:

PRESIDENT	MICHAEL A. COOPER New York, New York
PRESIDENT-ELECT	DAVID J. BECK Houston, Texas
SECRETARY	JOHN J. "JACK" DALTON Atlanta, Georgia
TREASURER	MIKEL L. STOUT Wichita, Kansas

These four and immediate past president **James W. Morris III** will constitute the Executive Committee for the coming year.

Chilton Davis Varner of Atlanta, Georgia, **Francis X. Dee** of Newark, New Jersey, **Philip J. Kessler**

of Detroit, Michigan and **J. Donald Cowan, Jr.** of Greensboro, North Carolina will be nominated for vacant seats on the Board of Regents. Dee, Kessler and Cowan will replace retiring **Regents Dennis R. Suplee, Sharon M. Woods** and **Edward W. Mullins, Jr.** in their respective regions. Varner will be nominated to replace **Regent Jack Dalton** upon his election as an officer.

Under the college bylaws, a Regents Nominating Committee, chaired by a member of the Board of Regents and composed of two additional Regents, two Past Presidents and two Fellows at large, nominates candidates for the Board. This year's committee was chaired by **Regent Gregory P. Joseph**. Regents are elected at the business meeting of the Fellows following the Saturday morning program at the Annual meeting.

The Board elects its officers upon nomination by the past presidents at a reorganizational meeting immediately thereafter. Only a Fellow who has served as a Regent is eligible to be nominated as an officer of the College.

PEGGY CLARE PHOTO:
*(l-r) Bob Clare,
Prime Minister Margaret Thatcher
and Ralph Lancaster.*



CIVILITY IN THE PRACTICE OF LITIGATION

[On June 20 the Downstate New York Committee of the College and the Association of the Bar of the City of New York jointly sponsored an program entitled "Civility and Zealous Advocacy" that was webstreamed across the nation. The subject was introduced by Robert J. Jossen, FACTL, after which comments were made by a panel consisting of Celia Goldwag Barenholtz, FACTL, who spoke from the point of view of the civil trial lawyer; Theodore V. Wells, Jr., FACTL, who spoke for the criminal defense attorney; Professor Bruce A. Green of the Fordham Law School, who gave the view from the law school, and The Honorable Jed S. Rakoff, JFACTL, United States District Court for the Southern District of New York, who gave the view from the bench. Mr. Josten's remarks, edited slightly for publication, follow.]

Our topic this evening concerns "civility" and the practice of litigation, both in the courtroom and in proceedings leading up to trial. It may seem a little odd that we address a topic of "civility" in the legal practice, since for many people in our society their image of a lawyer is formed by television, movies, books and high profile cases in which the successful lawyer always seems to go for the jugular, never concedes an inch to one's adversary, treats the adversary with utter disdain and lower than any form of parasite in society! If success is built upon aggressiveness, toughness, nerves of steel, and the like, then what are we doing with four well-known litigators talking about the subject of "civility?"

The answer to this seeming contradiction is simple: it is precisely because of such stereotypes and the pitfalls of the road to incivility that the American College of Trial Lawyers and other professional organizations have devoted resources to the creation of Pre-Trial and Trial Codes of Conduct.

Let me put this point in concrete focus. Last Friday, on June 17, 2005, the *New York Law Journal* in its "In Brief" column reported the following story: "Attorney Sanctioned for 'Rude Behavior.'" The article briefly reported a decision by a Manhattan Supreme Court Judge ordering an attorney to pay \$1,000 for his "unprofessional, condescending, rude, insulting and obtrusive" behavior throughout a five and one-half hour deposition. The article also reported that the Law Journal had published the judge's decision two days earlier in its decision pages, on June 15, p. 22 column 3. We turn then to the actual opinion

and find that the Court described the lawyer's conduct as follows: "He improperly interjected himself throughout the proceedings, repeatedly directing his client to not answer proper questions, rephrasing questions himself, directing client to only answer 'yes' or 'no', suggesting answers to the Plaintiff, and on several occasions, changed his client's answers. . . ." The opinion goes on to note: "His rude and sarcastic tone was unprofessional." So, in one week, this lawyer found his name prominently mentioned twice in the Law Journal and in an opinion that will forever stay with him, decrying his lack of professionalism and his conduct.

Hopefully, such stories are decreasing in number, but they clearly still exist. To give you a sense of history, the Code of Trial Conduct was first adopted by the American College of Trial Lawyers, in 1956. It was then widely disseminated nearly eleven years ago in the summer of 1994. Concerns that lawyers' conduct emphasizing incivility had become rampant led the College's Committee on Professionalism to spend time discussing and structuring a new Code of Pre-Trial Conduct, which was adopted in 2003 and widely disseminated in 2004.

These Codes are not rules of civil procedure; they are not rules of evidentiary import; they are not Codes of Professional Responsibility (that govern the ethical conduct of lawyers in New York) or Model Rules of Professional Responsibility (that govern the ethical conduct of lawyers in many jurisdictions in the United States). Rather, these Codes are a body of guidelines to implement the objectives of practicing law with civility. In the words of Chief Justice Rehnquist describing the Pretrial Code:

“[T]his new Pretrial Code is part of a continuing effort to promote professionalism and courtesy among trial lawyers during all stages of litigation. It supplements existing rules of professional conduct, local court rules, and rules of procedure, and provides guidance to trial lawyers on proper conduct in pretrial proceedings. And, like the Code of Trial Conduct, the Code expresses only minimum standards.”

Let me start with a **BASIC PRINCIPLE** that is found in both Codes. The Codes specifically recognize that “trial lawyers owe undivided allegiance to their clients . . .” This statement, although at the core of the attorney-client relationship, is not the sole governing principle. The Codes recognize that at the same time lawyers “also owe important duties to the judicial system, to their colleagues, and to the public.” The Pre-trial Code goes on to point out: “In pretrial proceedings, a trial lawyer owes opposing counsel duties of courtesy, candor, and cooperation in scheduling, serving papers, communicating in writing and in speech, conducting discovery, designating expert witnesses, and seeking to resolve cases without litigation.”

We recognize that this is not always an easy balance to keep in mind; later in this program, we will illustrate some of the practical situations where lawyers face the tension in what may appear to be conflicting interests between zealous representation of the client and civility, and you will have a chance to see how some of the experts in our field deal with such problems. But the fact that this is difficult does not mean that lawyers are free to ignore the controversies or the conflicting responsibilities. As in so many other aspects of life, the easy path, the path of least resistance, typically is the wrong one.

A **SECOND MAJOR PRINCIPLE** in the Code deals with communication with adversaries. Here, the Code (Section 4) cautions about the danger of allowing ill feelings which clients may have developed toward one another to become the feelings of the lawyers in the case. Lawyers are urged to avoid hostile, demeaning, or humiliating words in written and oral communication with one another. Again,

in thinking about the balance, this principle does not mean that one may not argue with one’s adversary, or call him or her if they engage in deceptive or improper practices. But it does mean that sheer hostility or nastiness should not be the defining calling cards of the relationship. All that you will earn with such practices is a reputation that may be quickly acquired and difficult to lose, one that ultimately does not make you a better, tougher or more successful lawyer.

A **THIRD PRINCIPLE** deals with discovery, (Rule 5). This surely is not surprising because historically certain lawyers have sought to win battles by sharp practices in the discovery setting. If there is one area of abuse and of criticism that has tarred the litigators’ mantle it has been the games people play in discovery and the notion that learning about the strengths and weaknesses of your case and of your adversary’s somehow is deemed to be something to avoid! In each discovery device, the Code urges the lawyer to use only that which is necessary to avoid excessive, duplicative or unnecessary discovery. Among many helpful comments in the discovery area, lawyers are urged not to use objections to obstruct questioning during a deposition or to improperly communicate with the witness.

I’m going to digress here to point out one practical problem that developed quite recently in the discovery context. Many lawyers are especially aggressive when it comes to withholding documents for production based upon assertion of the attorney-client or work product privilege. To be sure, where such privileges are applicable, or even arguable, they should be invoked and the document withheld. But excessive zeal or indefensible positions here, especially if undertaken for delay, can be disastrous. It appears that concern over such tactics fueled a May 19, 2005 decision by the United States Court of Appeals for the 9th Circuit in *Burlington Northern & Santa Fe Railway Co. v. District of Montana*, No. 04-72134, 2005 WL 1175922. In Burlington, the Court of Appeals denied a writ of mandamus seeking to overturn a district court’s decision that the defendant had waived its attorney-client and work product privileges by failing to provide a privilege

log in a timely manner. In refusing to vacate the district court's decision, the 9th Circuit held that "boilerplate objections or blanket refusals inserted into a response to a Rule 34 request for production of documents are insufficient to assert a privilege." Although it rejected a per se rule that privilege logs must be produced within thirty days, the court held that Rule 34's thirty-day response period should be a "default guideline" for the service of privilege logs. The Court also established a number of factors to be considered by the District Court in determining waiver issues on a case-by-case basis. While the decision raises some troubling legal issues for us to contemplate in the future, I think it is a fair assumption that the result was motivated at least in part by a sense that a sophisticated litigant seemed to have participated in a tactical effort regarding the withholding of the log.

A **FOURTH PRINCIPLE** deals with effective settlement and alternative dispute resolution procedures (Rule 9). One aspect of this principle is the requirement that the lawyer engage in a meaningful assessment of the strengths and weaknesses of the case with the client "at the earliest practicable time," so that a variety of approaches may be considered. This is not always an easy task since clients sometimes look at the merits of their case through opaque glasses. Nonetheless, it is a part of the appropriate code of conduct for a lawyer to overcome the client's unrealistic assessments and to look at the case practically, with an informed awareness of the risks of proceeding. To be sure, if, after such an assessment, the client wants to proceed, as many will do, then it is the lawyer's obligation to proceed zealously and vigorously. But, the appropriate time to assess settlement is not on the eve of trial, but much earlier.

As a part of civility code obligations in settlement, the lawyer is instructed to proceed in good faith with the adversary. False or exaggerated offers are neither constructive nor appropriate, and ultimately they will only further fuel emotional discord, which

sometimes gets in the way of a settlement. Many times we realize that an important component of a settlement is for the client to feel vindicated, or that his view has been championed in court, or that he has received an acknowledgement from the other side that he was--or was not, as the case may be--treated wrongly. Often, lawyers who are adversaries can work together in a constructive fashion to bring about the successful settlement of a dispute. When lawyers act in this fashion, they are well-serving their clients' respective interests, as well as the best interest of the judicial system and our profession.

A **FIFTH PRINCIPLE** is prominently displayed in the trial code for lawyers in criminal cases, although it is equally applicable in civil litigations as well: namely, that the lawyer is expected to act with candor to the tribunal, honestly, and without trickery or deception. While most lawyers would quickly agree that this is an important principle and would attest to the degree to which they uphold it, it is worth mentioning that often in the heat of battle in the courtroom the lines between hard fought, aggressive and fair advocacy, and conduct that is improper, misleading or deceptive, can become blurred, or, perhaps better put, that one's vision about such matters can become blurred by surroundings and events.

THE CHALLENGE FOR EVERY LAWYER WHO PRACTICES IN THE COURTROOM, OR IN CIVIL LITIGATION, OR INDEED ANYWHERE ELSE, IS TO MAINTAIN CONTROL AND TO RESIST THE TEMPTATION TO CROSS THE LINE.

It is this concern that fuels the need for programs such as this one. In the final analysis, many lawyers who get themselves into trouble with courts, clients or adversaries, are not necessarily bad people, nor do they set out to take shortcuts or to engage in improper actions. But, ours also is a competitive profession in which the desire to win for a client sometimes gets translated into the desire to win at all costs. The challenge for every lawyer who practices in the courtroom, or in civil litigation, or indeed anywhere else, is to maintain control and to resist the temptation to cross the line. That is what we really mean by "civility," and that is the objective the two codes before you attempt to inculcate.

LIFE FOR A “TYPICAL” FELLOW: NEW YORK’S MICHAEL CARDOZO

(EXCERPTED FROM THE NEW YORK LAW JOURNAL. REPRINTED WITH PERMISSION.)



Every day is a juggling act for Corporation Counsel Michael A. Cardozo, (FACTL 1986) a premier litigator in the private sector who almost four years ago was named to head New York City’s third largest law firm – its municipal Law Department.

Cases with major policy implications land on his desk almost daily; Mayor Michael R. Bloomberg and his commissioners seek his advice; reporters clamor for his attention; and the City Council is often on the attack.

In just one week this spring, Cardozo had two dozen meetings with key Law Department managers and top city officials, including one on a “topic unknown” with Mr. Bloomberg at City Hall. He also had nine meetings with his lawyers to map strategy on the city’s most visible cases.

Cardozo’s day starts before 9 a.m., often stretches to 9:30 at night and sometimes beyond. At 2 a.m. one morning last September, Cardozo, dressed in his trademark dark grey suit and suspenders, appeared in state Supreme Court to defend the city against charges that the police department was jailing protesters to keep them off the streets during the Republican National Convention.

Likewise, Cardozo took personal charge of negotiations early last January with the Legal Aid Society in an attempt to end a series of court orders and agreements governing shelter for homeless families that have vexed four mayors and their lawyers. He worked through the night until 5 a.m. three times on that case, but the effort fell short.

As his all-nighters attest, Cardozo takes a hands-on, activist approach to his job—a job that he broadly

conceives as changing the way the Law Department conducts its business.

A tough, relentless litigator who is nevertheless capable of turning on the charm, he has pressed to change the way the department’s 650 lawyers litigate cases; to give them tools needed to match any major firm; and to mold public opinion to the Law Department’s advantage.

What Cardozo, 64, says he brings to the Law Department as its 51st corporation counsel is the “philosophy” he developed as a senior partner at Proskauer Rose where he “ran major litigations and managed a large law office.” He worked at the firm for more than 30 years, representing clients such as the National Basketball Association and National Hockey League. His management skills were further honed during his two years as president of the Association of the Bar of the City of New York.

Praised by Mayor

Unlike Rudy Giuliani, Mr. Bloomberg is not an attorney. Before his election, the billionaire businessman had never met Cardozo, who was recruited by Nathan Leventhal, an old friend and classmate at Columbia Law School who directed the mayor’s transition team.

The decision to enter the public sector was costly for Cardozo. According to a survey of law firm profits by *The American Lawyer*, an affiliate of the *Law Journal*, the average profits per partner at Proskauer were \$965,000 in 2001, the year Cardozo became corporation counsel. As corporation counsel, Cardozo started at a salary of \$162,800. He now earns \$171,000.

Nevertheless, Cardozo said, “I can’t think of a lawyer who would have said ‘no’” to the new mayor’s offer. He said that the pay cut was more than balanced by the “enormous satisfaction that comes from representing the city and helping move it in the right direction.”

MICHAEL A. CARDOZO

Born: June 28, 1941. The oldest of two sons born to Harmon and Lucy Cardozo. His father was a real estate broker and his mother was a homemaker involved in civic affairs.

Relation to U.S. Supreme Court Justice Benjamin N. Cardozo: Justice Cardozo, who was also chief judge of the New York Court of Appeals, was a first cousin of Cardozo's great-grandfather.

Childhood: When Cardozo was in seventh grade his family moved from the Upper West Side of Manhattan to Westport, Conn. where his mother served on the Board of Education. He attended public schools in Manhattan and Westport.

Higher Education: He received his undergraduate degree in political science from Brown University in 1963 and his law degree from Columbia Law School in 1966.

Work Experience: He clerked for the late Southern District Judge Edward C. McLean in 1966-67. In 1967 he joined Proskauer Rose

where he became a partner in 1974 and has remained until becoming Corporation Counsel in 2002. At Proskauer, Mr. Cardozo developed a sports law specialty representing the National Basketball Association, the National Hockey League and Major League Soccer. He rose to become co-chairman of the firm's sports law group and its litigation department. He also was elected on three separate occasions to the firm's six-member executive committee.

Family: He and his wife, Nancy, have been married 40 years. Nancy, like his mother, is a homemaker and involved in civic affairs. They have two daughters, Sheryl, the director of a youth program, and Hedy, a geriatric social worker, who recently had twins.

Residence: Cardozo has an apartment near Columbus Circle, and

Ms. Cardozo continues to reside in their home in Scarsdale. They are always together on weekends, and Ms. Cardozo comes into the city about two or three nights a week.

For Fun: Cardozo is a big sports fan, but has a particularly warm spot in his heart for the Yankees. When Nancy comes to town, they often go to theatre or opera. He jogs three to four miles almost every day. He also loves the outdoors and recently went hiking and snorkeling with his daughter, Sheryl, in the Galapagos Islands. He enjoys reading history and biography.

Dress: He tends toward the conservative with dark suits and suspenders, but he likes to play a bit with his suspenders and ties. He wears a tie with the city bar association's logo on it to association functions and has a pair of "Chrysler Building" suspenders.

PEGGY CLARE PHOTO:

July 12, 1985

(l-r) Sir Andrew Leggatt, Jill Leggatt, and Bob Clare at Inner Temple, London.



REGIONAL ROUNDUP

DOWNSTATE NEW YORK COMMITTEE LAUNCHES WEBSTREAMING PROGRAM

Downstate New York Committee's Bob Jossen of New York City moderated a panel on "Civility and Zealous Advocacy" on June 20 sponsored by ACTL and the Association of the City Bar of New York and webstreamed live across the nation. (Jossen's remarks are reprinted elsewhere in this issue of *The Bulletin*.)

Fellows **Ted Wells** and **Celia Barenholtz** were panel members along with **Judicial Fellow Hon. Jed Rakoff** and Professor Bruce Green of Fordham University.

Also, committee member Paul Saunders organized a successful teaching program for lawyers at New York Lawyers for Public Interest and Legal Services. Faculty included **Judicial Fellows Hon. Louis Stanton** and **Jed Rakoff** and other Fellows, **Pete Putzel, Jim Brown, Jim Moss, Stephen Weiner, William Purcell, Evan Chesler, Celia Barenholtz, Jim Zirin** and **Walter Stratton**.

Other committee members put together two training programs for lawyers in New York City's Corporation Counsel's Office.

OHIO FELLOWS STAGE MOCK MURDER TRIAL

The mock trial by Ohio Fellows of the Margaret Garner murder case went as planned on July 19 at the National Underground Railroad Freedom Center in Cincinnati.

It was part of an evening event sponsored by the Cincinnati Opera and the Freedom Center in conjunction with the Cincinnati premier of the opera "Margaret Garner."

The hour-long mock trial was presided over by **Judicial Fellow Hon. James L. Graham** with Fellow **Tom Hill** acting as prosecutor, Fellow **Frank Ray** for the defense and Fellow **Kathleen Brinkman** as clerk. A majority of the audience of 300 voted to acquit Margaret Garner of murdering her child at the time officers tried to arrest her and her family to return them to slavery. A panel discussion on the case and its historical, legal and cultural significance followed the trial.

TEXAS LEGAL AID LAWYERS ATTEND FIRST TRIAL ACADEMY

Several Fellows donated their services for a four-day Texas Trial Academy on May 15-19 for Texas legal aid lawyers at The University of Texas School of Law in Austin, hosted by the Texas Access to Justice Commission.

Twenty-nine legal aid lawyers from all over Texas attended workshops on voir dire (jury selection), direct and cross examination of witnesses and preparation and delivery of opening and closing statements.

The Texas Trial Academy is the brainchild of Fellow **James B. Sales** of Houston who said, "Improving the justice system for the poor is not just about raising money. We have to equip advocates with the tools and training that will put them on a par with their competition."

The Texas Access to Justice Commission was created in 2001 by the Supreme Court of Texas to develop and implement policy initiatives designed to expand access to and enhance the quality of justice in civil legal matters for low-income Texans.

UPSTATE NY AND ONTARIO HOLD JOINT MEETING

More than 100 Fellows from Upstate New York and Ontario and their guests gathered June 10-12 at Niagara-on-the-Lake. President **James W. Morris, III**, gave a report which was followed by panels from both sides of the border; one addressed the topic "Juries: Good, Bad, Neither" and the other "The Process of Judicial Appointment: How It Differs and What Can We Learn?" Friday festivities featured a performance of the musical "Gypsy," a special presentation of the Shaw Festival for 2005. Former Justice of the Supreme Court of Canada, the **Hon. Frank Iacobucci** (JFACTL), was the guest speaker at the Saturday night dinner at the Peller Estates Winery. President-Elect **Michael A. Cooper** and Regent **Brian P. Crosby** were special guests.

IN MEMORIAM

THE COLLEGE HAS RECEIVED NOTICE OF THE DEATHS OF THE FOLLOWING FELLOWS:

Robert C. Compton, Compton, Prewitt, Thomas & Hickey, LLP, El Dorado, Arkansas, a 1972 inductee, died August 6, at the age of 76. A graduate of Hendrix College and the University of Arkansas Law School, he was a former FBI agent who later served as both Special Associate Justice and Special Chief Justice of the Arkansas Supreme Court and as Special Chairman of the Arkansas Public Service Commission. A former president of the Arkansas Bar, he was named the Arkansas Outstanding Lawyer in 1988. A classroom at the University of Arkansas is dedicated in his name.

Thomas F. Connery, Jr., founding member of Brown & Connery, LLP, Westmont, New Jersey, a 1973 inductee, died in late 2004. Born in 1915, he was a graduate of Rutgers Law School. From 1941 to 1946 he served as an agent and officer in the U. S. Naval Intelligence Service, later applying for sea duty and participating in the Normandy invasion. At the war's end, he was the commanding officer of an LSM at Okinawa. A member of the New Jersey General Assembly and of the State Senate, he served his state in many capacities, including serving as Commissioner of the New Jersey Racing Commission from 1973 to 1982 and as its chairman for three of those years. He was a recipient of a Distinguished Alumni Award from his law school.

Charles L. Cornelius, Jr., a 1968 inductee and a member of Cornelius & Collins, LLP, Nashville, Tennessee, a firm founded by his father, has died at the age of 79. He had attended Vanderbilt University and earned his law degree from Columbia University. He has served as secretary and treasurer of the Tennessee State Bar and was a life member of the Sixth Circuit Judicial Conference.

William E. Davidson, Jr., Davidson & Strain, Rome, Georgia, a 1985 inductee, has died at the age of 67. A graduate of the University of Georgia and of its law school, he was a Special Assistant Attorney General of Georgia for eighteen years.

Harry Drucker, a thirteen-year resident of Palo Alto, California and a 1965 inductee, died October 25, 2004 at the age of 97. A 1931 graduate of the law school of the University of Iowa, he practiced in Marshalltown, Iowa, joining the firm of Boardman & Cartwright in 1935, until his retirement in 1991. He had remained of counsel to his old firm.

Retired Florida Supreme Court Justice Raymond Ehrlich, Jacksonville, Florida, a 1968 inductee, died July 12 at the age of 87. A graduate of the University of Florida and of its law school, he was a lieutenant commander in the U. S. Navy in World War II. He was appointed to the Florida Supreme Court in 1981 after thirty-five years of law practice, and served as Chief Justice from 1988 to 1990. During his tenure, he oversaw a study of gender bias in the Florida legal system that led to significant reforms on behalf of women. An insurance defense lawyer in private practice, he was instrumental as a jurist in moving the Court towards deciding in favor of injured people. In 1989, he cast the swing vote in a split decision overturning a state law requiring minor girls to obtain parental consent before undergoing an abortion. After reaching the mandatory retirement age, he served as special counsel to then Senator Bob Graham, then as jurist-in-residence at the University of Florida Law School before becoming a partner in the Jacksonville office of Holland & Knight. He was made partner emeritus in 2004. A universally beloved figure, he was a pillar of the legal community, a towering intellect committed to excel-

lence, and a bow-tie wearer known for his quiet, friendly demeanor. His many honors included the Florida Bar Foundation's Medal of Honor Award.

John A. Fogleman, of counsel to Gill, Elrod, Ragon, Owen & Sherman, PA, Little Rock, Arkansas, a 1961 inductee, has died. Born in 1911, he earned his law degree from the University of Memphis. He was president of the Arkansas Bar in 1958 and Associate Justice and later Chief Justice of the Arkansas Supreme Court.

Logan Ford, Allen Texas, a 1958 inductee, has died. A 1927 graduate of Southern Methodist University, he played center for the SMU Mustangs football team and was named All-Southwestern Center in 1926, when SMU won its conference championship. He graduated in SMU's third law class in 1930 and practiced law in Dallas as a partner in Burford, Ryburn, Hincks & Ford until his retirement in 1978. He continued to do pro bono work until 1995. In 1999, he and his wife established the Lee and Logan Ford Endowed Scholarship Fund at the SMU Law School.

Roger E. Kelly, of counsel to Gilbert, Kelly, Crowley & Jennett, LLP, Los Angeles, California, a 1956 inductee, died November 20, 2004. Born in 1916 in Winnipeg, Manitoba, Canada he was admitted to the California Bar after graduating from law school at Loyola University of Los Angeles. He was the quintessential amateur golfer, thrice winning the Bing Crosby Pro-Am at Pebble Beach, partnered first with Sam Snead and then twice with Jay Herbert.

Jeremiah J. Kenney, Fieger, Fieger, Kenney & Johnson, Southfield, Michigan, a 1997 inductee, died April 10 from melanoma at age 55. A graduate of The College of William and Mary, he received his law degree from the University of Detroit Law School in 1974. For 23 years he practiced with a large Detroit firm. In 1999, he left his job as a

managing partner of that seven-office, 125-lawyer firm to join a smaller firm in order to get into the courtroom more, "seamlessly" making the transition from medical malpractice defense to plaintiffs' civil rights and medical malpractice cases.

The Rt. Hon. Lord Geoffrey Dawson Lane, London, England, Lord Chief Justice from 1980 to 1992, who was made an Honorary Fellow in 1982, has died at the age of 87. Born in Lincolnshire, the son of a bank manager, he took double First Honors in Classics and Law at Trinity College, Cambridge. Volunteering for the Royal Air Force in 1940, he flew Wellington bombers against targets in Germany and Italy. In the later stages of the war, he flew transports and flew multiple missions in the D-Day operations. Retiring from the RAF as a squadron commander, he was called to the Bar by Gray's Inn in 1946. He won admiration for the informality of his proceedings, his concise and clear judgments, delivered, as one journalist observed, "with all the rhythm and panache of a classical orator."

Gerald R. Mason, Mason & Mason, Pinedale, Wyoming, a 2001 inductee, died July 6. A graduate of the University of Wyoming and of its law school and a past president of the Wyoming Bar, he had practiced in Pinedale since 1964. At the time the cancer that proved fatal was diagnosed, he was serving as Wyoming State Chair and was the planner of the regional College meeting that was held this year in Wyoming.

George A. McLaughlin, Jr., The McLaughlin Brothers, PC, Boston, Massachusetts, a 1976 inductee, has died. Born in 1931, he was a graduate of Dartmouth and of the Boston University Law School. He had served as a member of the Board of Governors of the Massachusetts Academy of Trial Lawyers.

Paul J. McQuillan, a partner in Januszewski, McQuillan and DeNigris, New Britain, Connecti-

cut, a 1987 inductee, died February 7 after a long illness. After finishing high school, he enlisted in the U.S. Army and served in Italy. He attended Teachers College of Connecticut and graduated from the Georgetown University School of Foreign Service. Reentering military service, he served as an Army officer during the Korean Conflict. He graduated from Georgetown School of Law in 1956. Widely known throughout the state as both a civil and criminal trial lawyer, he had handled a number of unique assignments. Named special prosecutor in a grand jury investigation into a celebrated murder case that helped to clear the defendant who had been convicted of the crime, he was then made chairman of the State Police Citizens Advisory Committee. He had also chaired the State Board of Pardons, the Criminal Injuries Compensation Board and the Connecticut Judicial Selection Commission. He was a past president of the Connecticut Trial Lawyers Association and a past member of the Board of Governors of ATLA and was the recipient of numerous awards.

Bernard S. Meyer, Meyer, Suozzi, English & Klein, PC, Mineola, New York, a 1977 inductee, who served for fourteen years on the Nassau County Supreme Court and thereafter from 1979 to 1986 on the New York Court of Appeals, died September 4 after a long illness. Born in 1916, he was a graduate of Johns Hopkins University and the law school of the University of Maryland at Baltimore. He interrupted his Maryland practice to serve in the U. S. Navy during World War II. In 1949 he was admitted to the New York Bar. The author of a landmark decision on school prayer, he had also served as Special Deputy Attorney General in charge of the investigation into the 1971 Attica Prison riot. He had served as chair of the National Conference of State Court Trial Judges and on the board of the National Center for State Courts, was a founder of the New York Fair Trial Free Press Conference and a recipient of many honors and honorary degrees.

Judge William J. Nierengarten, Rochester, Minnesota, a 1982 inductee and a former judge in three levels of the Minnesota courts, including its Court of Appeals, died November 25, 2004 at the age of 85. He had attended St. Cloud State University and St. Paul College of Law, University of Minnesota. After serving in the U.S. Army in World War II, he remained in the Judge Advocate General Reserve, retiring as a colonel. He served on active duty in the Middle East and wrote a book on Muslim law used by the Army JAG.

James E. Pohlman, of counsel to Porter Wright Morris & Arthur, LLP, Columbus, Ohio, a 1979 inductee, died earlier this year at the age of 73. A graduate of Oberlin College, where he excelled in several sports and in the classroom, he served as a trustee of that institution from 1996 until his death. He earned his law degree from the University of Michigan. He was the former chairman of the litigation department of his firm, a former Secretary/Treasurer of the International Association of Defense Counsel and a life member of the Sixth Circuit Judicial Conference. He had also been president of the American Society of Medical Association Counsel.

As this edition of The Bulletin was going to press we received notice of the death of **William H. Rehnquist**, Chief Justice of the United States, on April 30. He was inducted into the College as a Judicial Fellow in 1989. A more complete notice will follow in the next edition.

Bryce E. Roe, Salt Lake City, Utah, a 1983 inductee, died July 28 of lung cancer. Born in 1921 in Preston, Idaho, where his parents published the local newspaper, his education at Utah State Agricultural College was interrupted by World War II. An antiaircraft artillery officer, he served for 45 months in the South Pacific on Oahu and Kwajalein Atoll and in the Marshall Islands. After the war, he worked his way through the University of Utah Law

School, where he was valedictorian of his class. He later attended Yale for a year as a Sterling Fellow. At various times in his career he served as a Utah Assistant Attorney General, as a law lecturer and, returning to active duty, as an officer in the Quartermaster Corps. After practicing with several firms, including firms he founded, he practiced from his home in later years. He argued more than 90 cases before the Utah Supreme Court. The Utah State Chair described him as “a highly respected member of our legal community who was always willing to accept the challenge of representing clients whose cause was just, but unpopular. He was a man of culture and varied interests”

William B. Scatchard, Jr., Capehart & Scatchard, PA, Mount Laurel, New Jersey, a 1976 inductee has died. Born in 1928, he was a graduate of Rutgers and of the University of Pennsylvania Law School. He had been a trustee of the Client Security Fund of the Bar of New Jersey, a member of the Supreme Court Committee on Judicial Performance and a trustee of the New Jersey State Bar.

Calvin Hunt Udall, of counsel to Fennemore Craig, PC, Phoenix, Arizona, a 1968 inductee, died November 28, 2004 at the age of 81. A 1948 graduate of the University of Arizona Law School, he had served as an Assistant Attorney General of the State of Arizona, as Arizona Special Counsel in *Arizona v. California* (the Colorado River Case), which went to the U. S. Supreme Court, and as lead counsel many other major cases. He chaired the American Bar Association Task Force on Minorities in the Legal Profession, served for thirty years in the ABA House of Delegates and for a term on its Board of Governors. He had also served as chair of the Fellows of the American Bar Foundation. He was the recipient of numerous awards for his public service.

Harold Waldrop, Atchley, Russell, Waldrop & Hlavinka, LLP, Texarkana, Texas, a 1976 inductee,

has died. Born in 1930, he earned his bachelors and masters degrees at East Texas State Teachers College and his law degree from the University of Texas. He had been a trustee of the Texas Bar Foundation and president of the Texas Association of Defense Counsel.

H. Emory Walters, Walters, Pujadas & Walker, PC, Ocilla, Georgia, a 1983 inductee, died May 31 at the age of 71. Graduating from Middle Georgia College at age 19, he enrolled in the Mercer School of Law, interrupted his legal education to serve two years in the U. S. Army during the Korean Conflict, then returned to school. He had practiced in Ocilla since 1960, served on the City Council and on three occasions as mayor *pro tem*. He also served two terms on the Board of Governors of the State Bar of Georgia.

The College has also received notice of the deaths of the following Fellows, whose date of induction is noted, but for whom biographical information was not available at press time: **Rino Charles Bragnolo**, Timmins, Ontario, '97; **John E. Britton**, Erie, Pennsylvania, '68; **Hon. William R. Channel**, Lafayette, California, '68; **Former Regent James E. Clark**, Birmingham, Alabama, '63; **Alexander C. Cordes**, Longwood, Florida, '72; **Robert L. Dickson**, Los Angeles, California, '82; **James W. Foley**, Saratoga, California, '72; **Earl Huddleston**, Columbia, Kentucky, '75; **Stuart Kadison**, Los Angeles, California, '68; **Tom Karas**, Phoenix, Arizona, '86; **James M. Kieffer**, Buffalo, New York, '92; **Frederick H. Link**, Porter, Indiana, '76; **H. Stephen Madsen**, Chagrin Falls, Ohio, '75; **Earle B. May, Jr.**, Birmingham, Alabama, '70; **Leslie M. Mullins**, Los Angeles, California, '69; **Edmund W. O'Brien**, Waterford, Connecticut, '68; **John Logan O'Donnell**, New York, New York, '61; **Robert H. Potter**, Morrison, Illinois, '72; **Steven James Rothschild**, Wilmington, Delaware, '97; and **Rodney J. E. Taylor, Q.C.**, Victoria, British Columbia, '83.

FELLOWS' URGED TO SERVE AS JUDGES IN STUDENT COMPETITIONS

QUALITY OF STUDENT'S EXPERIENCE ENHANCED BY PARTICIPATION OF EXPERIENCED ADVOCATES

"TEACH THE YOUNG; THAT IS ALL YOU CAN LEAVE BEHIND."

Those Fellows who heard Fellow James Brosnahan's tribute to Past President Joe Ball at the 2000 Annual Meeting will remember this as the last of Ball's five rules for trial lawyers.

The National Trial and National Moot Court competitions, in which the College participates as a co-sponsor, provide a superb opportunity for Fellows of the College to follow Ball's advice. They expose well over 2,000 law students to real-life exercises in trial or appellate practice under the critical eye of lawyers and judges who play the roles of judges and jurors.

Students from over 135 law schools compete each year in the National Trial Competition, with winners in the thirteen regional competitions competing in the final round, to be held this year in Dallas, Texas.

Over 165 schools compete in the National Moot Court Competition in fourteen regions, leading to the final round in New York City.

In addition to its financial support, including the awarding of prizes to the winners, the College has traditionally provided judges for the regional Moot Court Competitions and judges and jurors for the National Trial Competitions.

The role of these judges and jurors traditionally goes beyond merely choosing the winners. They use the occasion as a teaching tool,

providing constructive criticism at the end of the competition, so that the exercise can be a learning experience for all the participants, winners and losers.

In those regions in which Fellows of the College participate as judges and jurors, the comments of the students who compete have been universally favorable. They appreciate both the opportunity to learn from experienced advocates, and their willingness to devote time and effort to sharing their experience.

Too often, however, because of a lack of communication between the sponsors of some regional competitions, generally law schools and local or state bar organizations, and College Fellows in their area, too few Fellows have participated. Too few Fellows even know where and when the competitions are taking place in their area. In those regions where the judges and jurors lack the experience and the perspective of seasoned trial lawyers, the quality of the experience and its value to the student participants is measurably diminished.

The chairs of the National Moot Court and National Trial Competition Committees urge individual Fellows to volunteer a day or so to help make these competitions a success. They also urge the various State Committees to make participation in these competitions by their Fellows a committee project.

The chairs of the analogous Canadian competitions generally make direct arrangements with those Fellows whose participation is needed to make them a success.

SERVE AS JUDGES, con't on page 30

several South Dakota Fellows and spouses, and Jane and I traveled to the offices of the Dakota Plains Legal Services and to the Rosebud Reservation in South Dakota, where the award was presented and the check transferred. The appreciation and gratitude was heartwarming. Joe and his committee are already hard at work on a worthy successor for the Gumpert Award for the year 2005-2006.

As usual, our four highly successful Trial and Moot Court Competitions were held in the United States (each with 14 regionals and a final) and in Canada, chaired respectively by Phil Garrison of Springfield, Missouri, Frank Jones of Houston and Tom Heintzman of Toronto. I traveled to the winning law schools in the U.S. to present the Awards to the winning teams. This permitted me to renew acquaintances with those involved, since I was privileged to participate in the finals of both competitions. Regent Brian Crosby attended the Gale Cup Competition and finals in Toronto and I attended the finals of the Sopinka Cup in Ottawa and the awards ceremony there. These competitions, involving the vast majority of accredited law schools in both countries, serve not only our purpose of

advocacy training, but are “the face of the College” with succeeding generations of law students and faculty. Fellows devote thousands of hours to these competitions and deserve our thanks.

This year, both the Moot and Trial competition committees drafted and published manuals detailing the operation of their respective competitions and the responsibilities of the state committees, as well as those of the competition committees and the schools, which will assist future committees and participants and ensure uniform excellence in our product.

The Access to Justice Committee continued its successful efforts to provide pro bono legal services by individual College Fellows for persons who are unable to afford counsel competent to represent them in complex and difficult litigation, under the direction of Co-Chairs Christine Carron of Montreal and Bill Crow of Portland, Oregon and Regent Dennis Suplee of Philadelphia. Among the placements during this year were more than 20 Fellows who volunteered to defend detainees in Guantanamo, following the decision of the United States Supreme Court that they were entitled to counsel.

The Teaching of Trial and Appellate Advocacy Committee under Richard M. Zielinski of Boston has assisted 20 states in presenting trial advocacy seminars and lectures to public interest lawyers, an effort to assure that the poor are provided not just lawyers, but properly trained lawyers. Countless otherwise “billable” hours were dedicated by Fellows to the training of these lawyers, which otherwise would not be available to them.

In order to facilitate the provision of such advocacy training by more states and provinces, the College has collected the programs and outlines of all programs presented to date and makes them available to interested state and province committees. Mike Smith of Richmond, Virginia, soon to be Chairman of the Teaching and Appellate Advocacy Committee, drafted a complete manual describing in detail the elements and procedures for presenting

COLLEGE WEBSITE BEING UPDATED

The College's website at www.actl.com is being updated to provide Fellows-only access as well as the current access to the public.

Members of the public will still be able to access all that is now on the website, plus a listing of all the Fellows and their firms by city, state and province.

On the Fellows-only side, the full contents of the Blue Book, including addresses, telephone numbers and email addresses, soon will be accessible, as will registration on line for national meetings. Interactive committee sites and chat rooms will be added to the website in the future.

such advocacy training, a road map to enable the remaining states and provinces to offer this other important service to the administration of justice.

Histories Being Developed

Twenty-nine states have engaged in developing histories of the Fellows in their particular state and province, in addition to the 5 states which have completed and published their history. Regent Brian O'Neil developed and published a comprehensive guideline for the production of such histories to assist other states and provinces in preserving their precious heritage.

In addition, the Ad Hoc Heritage Committee, appointed by David Scott, chaired by Jim Schaller of Washington, D.C., is engaged in preserving the heritage of the College by, among other things, recording and videotaping the memories of those familiar with the early days of the College.

This year, our Codes of Pretrial and Trial Conduct were adapted by our Canada-U.S. Committee, Chair Stephen Marcus, and published in Canada in both French and English. (This Committee also "Canadized" the "Ethics Problem Manual.") Through the cooperation of Chief Justice Beverley McLachlin of Canada and the National Judicial Institute, copies of our Codes were sent to all Cana-

dian judges of courts equivalent to the U.S. Courts of record, along with a list of province committee and of the Fellows practicing in their respective provinces. Similarly, last year, copies of our Codes were sent to all United States Magistrate Judges and all United States District Judges, both accompanied by a list of Fellows and of the state committee in their respective jurisdictions, as well as a description of the standards of goals and purposes of the College.

This year, with the cooperation of the National Center for State Courts (NCSC) and the chairs of all our state committees, who secured the names and addresses of all judges of courts of record in the United States, the College sent copies of our Codes to approximately 13,000 state judges, accompanied by the lists of Fellows, the description of the College and letter from Chief Justice Shirley Abramson of Wisconsin, chair of the Board of the NCSC.

These have been favorably received. Some have made the Codes part of their standard pretrial order. At least one federal district has made it mandatory that lawyers qualifying for practice in that district confirm that they have read our Codes.

Under the direction of Alan Greer of Miami, Chair of the Professionalism Committee, the State and

PEGGY CLARE PHOTO:

*Chief Justice Warren Burger
with Past President Leon
Silverman.*



Province Chairs throughout the continent have succeeded in having our Codes published or hyper-linked on the websites of a number of state and local bar associations. Finally, the Legal Ethics Committee, Chair Lauren Handler of Morristown, New Jersey, and former Regent Payton Smith of Portland, Oregon, has produced a compendium for the teaching of our Codes, and, separately, Fellows have made presentations regarding the College's Codes at three separate United States Judicial Conferences. (Copies of these programs are available through the College office.)

In addition to the intrinsic value of these excellent Codes, we hope that the College will be identified with these Codes and with our Fellows in each of these jurisdictions, and they with the College, consistent with some of the goals set by our outreach initiative.

The Federal Civil Procedures Committee, Chair Bob Byman of Chicago, this year completed a 50-state compendium regarding offers of judgment, and the Legal Ethics Committee completed a Manual entitled "Teaching Trial Ethics," both of which are available on the website.

The Jury Committee and the Special Problems in the Administration of Justice Committee are engaged in a cooperative effort to determine the effect of the cost of litigation on the so-called "Vanishing Trial," seeking to recommend action to reduce true costs and in particular the expense of discovery under current practice. The Jury Committee also participated in the Jury Summit held in Las Vegas, considering the diminished number of jury trials in the United States.

The International Committee, Chair Phil Robbins of Phoenix, updated its paper concerning "The Use of Military Tribunals for Trial of Terrorists," Dick Franch of Chicago, author, and published its Report on the International Criminal Court. Among the many fine papers published by the College this year were "nuts and bolts, how to"

manuals and guides for state, province and general committees in the performance of a broad variety of activities in which they are engaged.

The Federal Criminal Procedures Committee, Chair Liz Ainslie of Philadelphia, published a critique of the criminal conviction of Arthur Andersen, "Indicting Corporations Revisited: Lesson of the Arthur Andersen Prosecution," which anticipated the legal reasoning leading to the reversal of that conviction by the United States Supreme Court. The Committee's fine Brady paper was published in the American Criminal Law Review.

The College's concern and emphasis on the phenomenon of the "Vanishing Trial" was reflected in an excellent article authored by Regent Greg Joseph, published in the Federal Rules Decisions. Due in large part to the leadership of Chair Larry Hoyle of Philadelphia, the Complex Litigation Committee this year published its "Manual on Complex Litigation," which will be issued in hard-back book form by Lexis/Nexis.

Just recently the Judicial Conference adopted the College's position regarding "unpublished opinions," the product of the excellent work of Bill Hanglely of Philadelphia and the Federal Rules of Evidence Committee.

Attorney-Client Under Attack

Our Attorney-Client Relations Committee, Chair Chilton Varner of Atlanta, is at work on a civil law version of its previous publication regarding "The Erosion of the Attorney-Client Privilege in Federal Criminal Investigations." Also, the committee members have summarized the 50 state responses to the survey of the ABA Model Rule 1.6 and prepared comprehensive commentary on the issues considered by the ABA Task Force on Attorney-Client Privilege, which were favorably received.

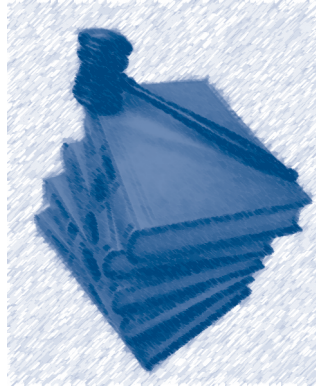
Our Federal Rules of Evidence Committee, Chair John Kenney of New York, Federal Civil Procedure and Federal Criminal Procedure Committees each submitted commentary and proposed changes to

ATTORNEY-CLIENT UNDER ATTACK

the Federal Rules in their respective areas of interest in response to requests by committees of Judicial Conference of the United States.

The Adjunct State Committee continues its active investigation and nomination of candidates whose practice is outside their state of residence and the Admission to Fellowship Committee leads our unceasing effort to increase diversity in our ranks.

I reiterate that there are over 1,600 Fellows engaged in the world of general, special, state and province committees of the College, and this recitation has undoubtedly omitted a number of important activities of the College and significant personal contributions during this year, for which I apologize. Look to our website for over 80 pages delineating more completely the activities of our



Committees in pursuit of our mission.

These are mere highlights, and the leadership of the College has no intention of reducing the level of activity of our College. We always will seek and enjoy our fellowship, while in “repose,” to quote

Chancellor Gumpert, but to us much has been given and, as an organization composed of the finest at the trial bar, we must continue to lead in the effort to enhance the quality of justice, to raise the reputation of the trial bar, to preserve the independence of the judiciary and the separation of powers, to preserve the attorney-client privilege and to resist erosion of the constitutional right to trial by jury. To

do this, we must come together in these ongoing initiatives by serving on committees of the College. Review the Blue Book and the website. Surely there is a committee for you. Identify it and we will do our best to appoint you where you can best serve.

PUBLICATION OF STATE AND PROVINCE HISTORIES ENCOURAGED

SEVERAL PROJECTS ALREADY UNDERWAY

A number of local histories of the College are being undertaken as state or provinces committee projects.

In 1995, under the leadership of Fellow Julius W. McKay, the South Carolina Fellows published a handsome bound volume entitled *40 Years of Excellence in the Law*. In it were biographical sketches and photographs of every member of the College from South Carolina, beginning with its first inductee in 1955.

The Minnesota Fellows have such a project underway. Their project has produced a history in notebook form so that pages can be added as new fellows are inducted. Indeed, Regent Brian O’Neill from Minneapolis has compiled a list entitled “Ten Steps to Create American College of Trial Lawyers Histories for Individual States” that spells out in detail how the Minnesota Fellows

went about their project.

Those steps include: getting a copy of a state’s pages from each successive annual College roster to identify all the Fellows, including those no longer alive; procuring biographical information, including information on Fellows no longer alive, from Martindale Hubbell’s files and other sources and circulating a draft to all the Fellows in the state and to former partners, families and friends of deceased Fellows to elicit more information.

The College has a rich history in every state and province, a history that can best be collected and preserved by people who know the living Fellows and who have access to information about those who are deceased.

The College office will gladly share with each state or province committee the information it will need to undertake such a project.

The dates and exact locations of the regional competitions in the United States and detailed contact information for those who wish to volunteer are posted on the College website. Please look over the following summary of the dates and locations of the regional competitions, find the contact information for the ones that suit your schedule on the website and volunteer to help make this College program a success:

NATIONAL TRIAL COMPETITION REGIONAL COMPETITION SCHEDULE

REGION 1 (CT, MA, ME, NH, RI, VT)

Franklin Pierce Law Center, Concord NH
February 10-12, 2006

REGION 2 (NY)

St. John's University School of Law, Jamaica, NY
February 3-5, 2006

REGION 3 (DE, PA, NJ)

Temple University School of Law, Philadelphia, PA
February 10-12, 2006

REGION 4 (DC, MD, VA)

George Mason U. School of Law, Fairfax, VA
February 2-4, 2006

REGION 5 (FL, GA, SC)

University of Florida, Gainesville, FL
February 10-12, 2006

REGION 6 (KY, MI, OH, WV)

Case Western Reserve Sch. of Law, Cleveland, OH
February 9/10-13, 2006

REGION 7 (AL, MS, NC, TN)

Univ. of Mississippi Sch. Of Law, University MS
February 16-19, 2006

REGION 8 (IL, IN)

U. of Illinois-Champaign/Urbana, Champaign, IL
February 9-11, 2006

REGION 9 (AR, IA, MN, MO, WI)

Univ of Wisconsin School of Law, Madison, WI
February 10-12, 2006

REGION 10 (CO, KS, MT, ND, NM, NE, OK, SD, WY)

Washburn U. School of Law, Topeka, KS
February 10-12, 2006

REGION 11 (LA, TX)

St. Mary's Univ. School of Law, San Antonio, TX
February 10-12, 2006

REGION 12 (ID, N.CA, NV, OR, WA)

Gonzaga Univ. School of Law, Spokane, WA
February 10-12, 2006

REGION 13 (AZ, S.CA, UT)

Loyola Law School, Los Angeles, CA
February 10-12, 2006

NATIONAL MOOT COURT COMPETITION REGIONAL SCHEDULE

REGION 1 WESTERN NEW ENGLAND COLL. OF LAW
Springfield, MA, November 17-19, 2005

REGION 2 ASSN OF THE BAR OF THE CITY OF NEW YORK
NYC, November 16-17, 2005

REGION 3 UNIV. OF BALTIMORE LAW SCHOOL
Baltimore, MD, November 18-20, 2005

REGION 4 VIRGINIA BAR ASSN YOUNG LAWYERS
Richmond, VA, November 18-19, 2005

REGION 5 GEORGIA BAR ASSN YOUNG LAWYERS
Atlanta, GA, November 4-5, 2005

REGION 6 SALMON P. CHASE COLL. OF LAW
Highland Heights, KY, November 17-19, 2005

REGION 7 CUMBERLAND SCHOOL OF LAW
Birmingham, AL, November 4, 2005

REGION 8 MARQUETTE UNIV. SCHOOL OF LAW
Milwaukee, WI, November 5-6, 2005

REGION 9 UNIVERSITY OF NEBRASKA
Lincoln, NE, November 18-19, 2005

REGION 10 SOUTHERN METHODIST UNIVERSITY
Dallas, TX, November 17-19, 2005

REGION 11 ARIZONA STATE UNIV. SCH. OF LAW
Tempe, AZ, November 18-20, 2005

REGION 12 LOS ANGELES COUNTY BAR ASSN
Los Angeles, CA, November 11-12, 2005

REGION 13 GONZAGA UNIVERSITY SCHOOL OF LAW
Spokane, WA, November 17-19, 2005

REGION 14 UNIVERSITY OF MINNESOTA
Minneapolis, MN, November 17-19, 2005

**VOLUNTEER INFORMATION
AT WWW.ACTL.COM**

MARC H. ALCOTT of New York, New York is the new president of the New York State Bar Association.

JUDITH S. KAYE (JFACTL) of New York, New York has received the American Bar Association's John Marshall Award. It honors jurists who have shown dedication to the improvement of the administration of justice. Judge Kaye also received the Distinguished Alumni Award from the University of Buffalo Law School.

JEROLD S. SOLOVY of Chicago has received the American Bar Association Litigation Section's John Minor Wisdom Award. The award honors those who have made outstanding contributions to the equality of justice in their communities.

JEROME I. BRAUN of San Francisco has been received the John P. Frank Award as the Outstanding Lawyer of the Year by the U.S. Courts for the Ninth Circuit.

DAVID FUNKHOUSER of Mason City, Iowa has been named to the American Bar Association's Board of Governors.

PHILLIP H. CORBOY, Chicago, Illinois, has received the American Bar Association Tort Trial & Insurance Practice Section's Pursuit of Justice Award. The award honors civil litigation attorneys who have excelled in assuring access to justice.

TALBOT "SANDY" D'ALEMBERTE of Tallahassee, Florida is the new board chair of the American Judicature Society. He also received the American Bar Association's CEELI Volunteer's Award on August 6 during the ABA's Annual Meeting in Chicago. CEELI is the ABA's Central European and Eurasian Law Initiative.

THOMAS P. SULLIVAN of Chicago has received a lifetime achievement award from the Legal Assistance Foundation of Metropolitan Chicago for his career of pro bono work.

The Florida Fellows have established a scholarship at Florida A&M's Law School in honor of the late **HENRY "LAT" LATIMER**, whose obituary appeared in the last issue of the Bulletin. Latimer, who grew up in public housing and worked his way through school, was the first Fellow of color in Florida. Earlier, the Florida Bar had named its Professionalism Center for Latimer, who was killed in a January automobile accident.

PEGGY CLARE PHOTO:

Lord Diplock and his first hamburger.



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