

American College of Trial Lawyers

NUMBER 2

AUTUMN BULLETIN

1984

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Dissatisfied with the expense and delay of litigation, America is demanding faster, less costly methods of resolving disputes. Despite some criticism, many of the new forums are earning high marks from litigators. **Page 3**

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Attorney-Client Privilege: Under Attack Again

The assault on this cornerstone of the adversary system, defeated on the national level, has been revived in the states. Fellow LEON SILVERMAN calls for a renewed defense of the duty to preserve client confidences.

In February 1983, the College won a critical victory in a dramatic floor fight at the American Bar Association's midyear meeting, defeating attempts to chip away at the attorney-client privilege. But the battle has now shifted to the states, where enough skirmishes are in doubt to cause concern. A renewed effort by the College is crucial. At stake is nothing less than the integrity of the adversary system.

The ABA House of Delegates' approval of the Model Rules of Professional Conduct was the culmination of a three-year national debate over the proper role of the attorney. The central issue was the scope of an attorney's duty to preserve the confidentiality of information received from his client.

The ABA's Kutak commission had proposed rules that would have greatly expanded the conditions under which an attorney could disclose client confidences. The College, led by former president John C. Elam, drafted alternative rules to retain stricter disclosure provisions, which were ultimately adopted.

However, these rules may be in jeopardy. State bars have the power to revert to the Kutak provisions in the rules they recommend for adoption by the state's highest court or its legislature. New Jersey, one of the two states that have adopted rules, has opted for key elements of the Kutak proposals, according to ABA tallies. And three of the seven states that have forwarded rules to their supreme courts for approval have included significant Kutak provisions. Fellows will be contacted by the College to take an active role in opposing these efforts, and should be prepared to help. What follows is a summary of the College's position on the three model rules under attack.

Model Rule 1.6: Confidentiality of Information

The attorney's duty to preserve client confidences is central to the adversary system. Each attorney is his client's advocate, not an arm of the court. His first duty is thus to serve his client's interests. He can do so only if the client feels he can reveal in confidence all relevant facts, no matter how embarrassing or apparently damaging. Where the confidences relate to future conduct, full communication allows the attorney to counsel his client against actions that could result in civil or criminal liability.

Model Rule 1.6 embodies these principles. It establishes a general pro-

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scription against disclosure of client confidences. The only exceptions are disclosures necessary to prevent a client from committing a crime likely to result in imminent death or serious physical injury, and those necessary to defend the attorney's professional conduct when it is questioned.

The rule does not require an attorney to allow others to continue to rely on his representations, such as opinion letters, if he discovers that they were made on the basis of criminal or fraudulent conduct by his client. He can and should withdraw such representations or opinions.

The Kutak commission's proposed Rule 1.6 would allow an attorney to reveal client confidences in far broader circumstances: to prevent his client from committing a criminal or fraudulent act likely to result in "substantial injury to the financial interest or property of another" or to "rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services had been used." Such a rule would have broad and uncertain application, permit widespread disclosure of client confidences and thus would greatly discourage full and frank communication between attorney and client. It would transform the attorney from an advocate to a policeman.

Model Rule 1.13: The Organization as Client

This rule recognizes that an organizational client can only act through its officers, directors, employees and other constituents. In so doing it makes clear that an attorney's communications with these constituent clients are subject to the confidentiality established in Rule 1.6. It also provides that if an attorney becomes convinced that a client's management is acting to further its own interests over those of the organization, the attorney's sole course is to withdraw from the representation.

The Kutak version would create an artificial distinction between the organizational client and its constituents, thereby casting considerable doubt on the scope of Rule 1.6 in these cases. It would allow an attorney to blow the whistle when he believes management is subordinating the corporate client's interest to its own. By permitting an attorney to disclose the institutional client's confidences, it would also arguably allow compulsion of such disclosure by legal process.

An organizational client is entitled to have its attorney act as its advocate and be bound by the same rule of confidentiality that applies to an individual's attorney. Model Rule 1.13 achieves this goal.

Model Rule 4.1: Truthfulness in Statements to Others

This rule seeks to prevent an attorney's silence from aiding wrongdoing by requiring him to disclose material facts to third parties where necessary "to avoid assisting a criminal or fraudulent act by a client." But it is subject to the confidentiality provisions in Model Rule 1.6.

The Kutak version would require an attorney to disclose facts where the failure to do so would be equivalent to making a material misrepresentation, or where necessary to avoid assisting a criminal or fraudulent act. It would override the disclosure restrictions in Rule 1.6, and thus undermine the client's confidence that his communications would be kept secret. ■

(Mr. Silverman is a partner in Fried, Frank, Harris, Shriver & Jacobson in New York. He was assisted in preparing this article by Peter Birkett, a N.Y. attorney.)

Alternate Dispute Resolution: an Imperfect but Effective Justice

Alternatives to litigation are gathering momentum, with corporate America leading the charge. The College, too, should be at the forefront, helping to shape the development of these mechanisms, Fellows JOAN HALL and RONALD OLSON assert. Below, they make a case for the concept, and summarize the arguments of advocates and skeptics.

The belief that a trial is the only suitable way to resolve a dispute is not just dated; it's dangerous. As dissatisfaction with the expense and attrition of the litigation process has grown, nontraditional forms of dispute resolution have proliferated, in and out of the courtroom. We may or may not approve of this, but we have an obligation to understand these processes and recommend them to clients when they provide the best format. And it's in our own interest to shape their evolution, because alternatives are no longer the wave of the future; they're here.

Consider the following:

- Rule 16 of the Federal Rules of Civil Procedure now suggests that participants at a pretrial conference consider the use of alternatives to resolve disputes.
- Eighteen states have enacted measures to promote alternatives; 18 more are considering similar laws.
- More than 70 state and local bar associations have active committees in this area.
- More than 250 mediation centers now exist, and the ABA will soon launch three multiprocess centers.
- Members of the Center for Public Resources — including many of the nation's largest corporations — have pledged that, in disputes with one another, they will consider alternatives before turning to the courts.

The concept has garnered the support of such normally reluctant bedfellows as the Carter and Reagan Justice Departments; Harvard Law School and the new, experimental City University of New York Law School at Queens College; and Ralph Nader and Chief Justice Warren E. Burger.

Of course, alternative resolutions aren't always appropriate. Foregoing court-supervised discovery, cross-examination and jury verdicts is often too risky. But alternatives open up lines of communication often unavailable in the more ritualistic, formalistic atmosphere of the courtroom. They allow parties to bypass questions of who's wrong or who's liable and to proceed, through

consensus rather than coercion, directly to the remedies.

Rather than aiming for the perfect justice that may be available in a trial, alternatives seek a rough justice — sooner, cheaper and with more emphasis on readjusting the relationship between disputants.

What follows are précis from a presentation given at the spring meeting on key elements of this critical issue.

Summary Jury Trials: Judge Thomas D. Lambros

While the summary jury trial is considered novel, it uses a concept as old as law itself — trial by jury. It's a nonbinding half-day dry run of the trial, where the evidence is summarized and jurors return individual verdicts. The objective is not to struggle for a consensus but to find out how real jurors would react to the case.

This dose of reality has produced startling results. More than 90 percent of the cases that I've submitted to the process have been settled. In fact, I've only had to try two civil jury cases in the past four years. The idea is picking up steam: judges in Boston, Michigan, Pennsylvania, Oklahoma and Colorado are using it successfully.

It works with complex cases as well as simple ones. A 10-year-old antitrust case I submitted to summary jury trial took one day to complete. A traditional trial would probably have produced as much as 30,000 pages of transcript, but the lawyers summarized it effectively in 169 pages. And both parties were satisfied with the results.

The Minitrial: David E. Beckwith

Corporations and their cost-conscious in-house counsel are turning to alternatives as quicker, less expensive ways to resolve commercial disputes, which are generally settled in the long run anyway. The minitrial is designed to educate senior management in the strengths, weaknesses and risks of each other's position — directly, not through the adversarial filter of trial counsel. The lawyers submit their cases to a panel consisting of a representa-

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tive of each company (ideally, the person who has the power to settle) and a neutral adviser with sufficient judicial credentials to lend authority to the disposition.

One example is a \$50 million contract dispute, with counterclaims, between American Can Co. and Wisconsin Electric Power Co. of Milwaukee. Both had girded for a long, complicated, fractious battle, culminating in a projected 75-day trial. But in the midst of discovery, American Can suggested a professional dispute resolution firm.

The firm heard each party's view of the case privately before recommending a minitrial. Document discovery was accelerated and we limited depositions to 70 hours. (American Can had previously scheduled several weeks just to depose our lead witness.) The minitrial itself consisted of a two-and-a-half-day meeting in a private club, during which each side presented documents and statements by counsel, punctuated by witness testimony on key points. The adviser — Harold Tyler, a Fellow and a former federal judge — controlled the pace.

In preparing for summation, I realized I had no jury to persuade. Judge Tyler was not going to decide the case. The executive vice president of American Can was my judge that day. I had to convince him that if he did not settle, we would win. For two days the parties huddled with Judge Tyler; 30 days later the case was settled.

Even if a case doesn't settle, the investment made in the minitrial is not lost. We had not completed all discovery, but we had completed enough. I could have tried that lawsuit the next day.

The Drawbacks: Judge William W. Schwarzer

When a lawyer persuades or allows his client to take a case outside the court system, he is inviting him on a journey into uncharted waters. The course will inevitably take unanticipated turns, and if it ends in disaster, the client is unlikely to be philosophical about the adventure. Surely, the traditional route is unpredictable enough.

In alternatives, we don't know if the requisite good will is sufficient to accommodate the unknown procedural problems that lie ahead, much less the more contentious substantive ones. We don't know how the evidence will be weighed, the rules applied, the decision made.

Telescoping the development of complex fact-patterns or credibility issues may be insufficient. Often, there's no substitute for the slow dripping of water, drop by drop, until it makes an impact on the rock on which it falls.

Given our stake in the judicial process, it behooves us to find alternatives within it, such as through the recent amendments to Rule 16. The process can be streamlined

through strictly enforced trial dates, early definition and limitation of issues, elimination of unnecessary proofs and early and ongoing settlement discussions at every meeting. More aggressive use of summary judgment where appropriate can also increase efficiency. And in bench trials where credibility is not an issue, the presentation of direct testimony in writing — with the trial limited largely to cross-examination — will also save time.

The Role of the College

The rush to alternatives has left important questions unresolved. We should be in the forefront of deciding which of the stated goals are legitimate. For example, should the primary objectives be relief of court congestion and enhancement of community involvement in resolving disputes? Or is it more realistic to turn to alternatives for greater efficiency and easier access to justice?

We should help determine which techniques work best for which kinds of disputes. Alternatives are often best suited for (though not restricted to) cases involving parties that have a continuing relationship — parents in child-custody disputes, employers and employees, suppliers and customers. Non-precedent-setting money matters, large and small, are another fertile area.

But alternatives are generally unsuitable when the parties have unequal bargaining strengths, where fundamental statutory or constitutional issues are being interpreted, where the central issues involve credibility or where one's opponent can't be trusted to play fairly.

Another crucial issue is how these methods should be institutionalized. Some courts have already begun to implement alternatives with rules. The Western District of Michigan expects to put virtually all civil cases through one of three alternatives: summary jury trials, minitrials or summarized presentations to three-lawyer panels.

But significant questions remain. How should these procedures be taught and funded? Should they function alongside courts or independently? What degree of coercion should be used to encourage their use? What should the role of nonlawyers be?

It is these questions that should be addressed, not the already answered one of whether alternatives work. ■

(Ms. Hall, a partner in Jenner & Block in Chicago, is chairman of the College's Alternate Dispute Resolution Committee. Mr. Olson, a partner in Munger, Tolles & Rickershauser in Los Angeles, is a committee member. Judge Lambros is a U.S. District Court judge in Cleveland. Mr. Beckwith, a Fellow, is a partner in Foley & Lardner in Milwaukee. Judge Schwarzer, a Fellow, is a U.S. District Court judge in San Francisco.)

National Trial Competition

WM. BRUCE HOFF JR.

Cumberland School of Law is hardly a legal legend. But last year the Birmingham, Ala., school nearly turned the National Trial Competition into what Yankee and Dodger fans used to call a Subway Series — in this case, between expansion teams. Two of its entrants had advanced to the semifinals; and while one narrowly lost in that round, the other brought home the school's second championship. For the eighth time in the event's nine-year history, a relatively unknown school had captured the title. (Harvard won the first one in 1975.) Once again, the event had shown big-name schools — and big-name lawyers — the wisdom of Satchel Paige's advice: Never look back, someone may be gaining on you.

For those who do care to scout out the future competition, the National Trial Competition is a good place to look. Coordinated by the Texas Young Lawyer's Association and supported by the College, it is the most broadly based contest of its kind. It attracts 6,000 students from 110 law schools, including most of the nation's best.

The competition advances a long-overdue trend toward providing law students with hands-on experience in the rough-and-tumble of a trial-level case. In four hours, members of opposing teams make opening statements, present and cross-examine witnesses, argue motions and make closing arguments. The problem case, which is changed at each level of the competition, is always complex and usually contemporary. (Last year's final involved damage claims by a mother and daughter from a birth-defect-control drug.) The judge and two jurors who evaluate the teams are real jurists and veteran litigators.

Local competitions, which are currently under way, produce 22 winning teams from 11 regions. The championship rounds—traditionally held in Houston and supported by the local firms—will take place this March in Dallas. The final round is judged by 12 Fellows and presided over by a prominent member of the judiciary.

The College is the event's most substantial sponsor. It furnishes a steady stream of judges and juror/evaluators, contributes \$9,500 annually and distributes numerous awards. With criticism of the trial bar's competence growing, this support is well-placed. ■

(Mr. Hoff, a partner in Mayer, Brown & Platt in Chicago, is chairman of the College's National Trial Competition Committee.)

Anglo-American Legal Exchange

ROBERTS B. OWEN

American and British judges and lawyers have long recognized the potential benefits of periodic exchanges of ideas on their legal systems. One of the most effective vehicles for this cross-fertilization has been the Anglo-American Legal Exchange, financed in part by the College. Every few years, starting in 1961, the two countries have dispatched eight-member teams of judges and lawyers for mutual on-site inspections. These interchanges have sparked improvements in both legal systems, particularly in procedure.

So far, teams have explored appellate procedure, criminal justice, administrative law, civil litigation and trial and appellate criminal practice. The seventh exchange, organized last summer by Chief Justice Warren E. Burger and Lord Bridge of Harwich, a Law Lord of the British House of Lords, focused on judicial review of administrative action, and offers a good example of the program's benefits. The U.S. team found that the English now route all such cases to specialized judges. Some members returned home wondering whether it makes sense for us to still be sending such a large portion of these cases to courts of general jurisdiction.

The American team, which spent two weeks in July visiting various courts and agencies in London, consisted of: Chief Justice Burger; Justice Sandra Day O'Connor; Chief Judge Howard Markey of the Federal Circuit; Judge Antonin Scalia of the D.C. Circuit; Dean Paul Verkuil of Tulane University School of Law; Loren Smith, chairman of the Administrative Conference of the United States; and Washington attorneys Charles Ablard and myself.

The British team, which spent two weeks in Washington, consisted of: Lord Bridge; Justice Sir Ralph Gibson; Justice Sir Harry Woolf; administrators Sir Derek Oulton and John Bailey; Professor David Williams, president of Wolfson College, Cambridge; Jeremy Sullivan, Q.C.; and solicitor Gary Hart.

The final two days of each visit included conferences between the two teams and with academics (from the University of Virginia and Cambridge University), and allowed a full exchange of ideas on what each legal system could learn from the other. ■

(Mr. Owen is a partner in Covington & Burling in Washington, D.C.)

Committee Update

Federal Rules of Criminal Procedure

The Board of Regents has approved the committee's recommendations on proposed amendments to the Federal Rules of Criminal Procedure. The College now officially supports amendments that would:

- Allow prosecutors to disclose grand jury matters to federal, state or local government officials when it's necessary for the enforcement of federal criminal law.
- Specify a time within which a defendant may move for sentence reduction; provide for a "reasonable" time within which a court must act on the motion; and allow a court to reduce a sentence within 120 days without a motion.
- Provide a method of selecting alternate grand jurors.
- Specify a procedure for handling a "dangerous offender notice."
- Make clear that the laches principle applies when the state or federal government has been prejudiced in its ability to retry a case.

The College supports, with minor recommended modifications, amendments that would:

- Make clear that when a defendant moves for a judgment of acquittal at the conclusion of the government's case in chief, the court has the right to proceed with the trial and submit the case to the jury, and to rule on the motion before or after the verdict, or after the jury is discharged without having returned one.
- Permit a judge to instruct the jury either before or after final argument.

- Direct judges to inform defendants pleading guilty or nolo contendere that they may be ordered to pay restitution to their victims.

The College opposes an amendment that would give the district courts authority, on request of a prosecutor, to order disclosure of grand jury material to state or local officials if it would reveal a violation of state criminal law.

The proposed amendments were promulgated by the Judicial Conference of the United States' Committee on Rules of Practice and Procedure in August 1983. On Sept. 6, 1984, that committee proposed additional changes, particularly to criminal Rule 31. The rule would no longer require a unanimous jury verdict if both parties stipulated in writing to a stated majority, approved by the judge.

Public hearings on these new proposals will be held February 1 in Washington and February 21 in San Francisco.

— *Harvey M. Silets, Chairman*

Cameras in Court

On September 20, the Judicial Conference of the United States turned down a petition by national media groups to be allowed to broadcast proceedings in federal court. The decision was a substantial victory for the College, which has long opposed this proposed change in the federal system.

The media has exerted tremendous pressure to force the opening of courtrooms to cameras, particularly television cameras. Many

elected state courts have been unable to resist, and as the media's success grew there, it trained its sights on the federal courts. In debates conducted by the Judicial Conference, media representatives asserted that a denial of cameras in the courtroom was a denial of open and public hearings. It has also been claimed that televised proceedings educate the public.

A special committee was appointed — consisting of Fellows Erwin N. Griswold, Simon H. Rifkind and myself — to draft the College's formal response. The position that emerged was that televised trial or appellate proceedings would adversely affect the right of parties to a fair trial or appellate hearing and would be incompatible with the interests of justice. The function of a trial is to settle controversies, not entertain or edify the public.

It has been accurately suggested that the presence of a camera affects the climate of a courtroom in the same way a revolver on the table changes the climate of a poker game. If cameras were allowed, only trials that interested the media would be broadcast. It is not unreasonable to assume that the jury might play to the crowd rather than simply follow the directions of the court.

It is already difficult to get most witnesses to testify. The more spectacular the case or the more intimate the details, the greater the reluctance to testify. Witnesses who now only grudgingly testify would almost certainly refuse to appear before cameras — for reasons that might have nothing to do with their general credibility or the truth of their testimony.

While the College can be proud of its role in the Judicial Conference's action, we must brace for further efforts to introduce cameras.

— *John C. Elam, Chairman*

College News

New Executive Director

The Board of Regents has appointed Robert A. Young executive director of the College. Mr. Young assumed his responsibilities on September 15, after a seven-year tenure with the Louisiana State Bar Association. He coordinated the bar group's legal education seminars and annual meeting and served as managing editor of its bimonthly journal. He also handled media relations for the organization, coordinated its law-related education program in the public schools and served as staff liaison for many of its volunteer committees.

Mr. Young has served as national chairman of the Public Relations Section of the National Association of Bar Executives and is a member of numerous professional associations.

In 1970, Mr. Young was appointed director of public relations at the Elmcrest School in New York. In 1976, he was made director of public information and programs for the American Heart Association — Louisiana.

Mr. Young received a B.A. from Le Moyne College in Syracuse, N.Y., in 1965. He did postgraduate work in public administration at Long Beach State College in California. He has attended numerous courses and seminars in association management.

Future Meetings

The spring meeting will be held March 17-20 at the Buena Vista Palace, 1900 Buena Vista Dr., Lake Buena Vista, Fla. Room-reservation

envelopes have been mailed to all Fellows. Those Fellows who have not sent their reservations to the hotel are urged to do so now.

Convention registration forms for the spring meeting will be sent to all Fellows in January. They should be mailed to the national office of the College upon completion.

The annual meeting will be held in London July 12, with the black-tie dinner scheduled for the following evening at the Grosvenor House. The pre-convention seminar will take place July 7-11 in Paris at the Paris Intercontinental Hotel.

Annual Meeting

Lord Bridge of Harwich and Supreme Court Justice Sandra Day O'Connor were among 206 new Fellows inducted into the College at the 30th Annual Banquet in Chicago on August 4.

The British jurist drew an enthusiastic response when he told the more than 1,100 attendees, "I believe we have never exported anything more valuable or more important across the Atlantic than the common law." Accepting an Honorary Fellowship, Lord Bridge added, "No institution is more firmly dedicated to the maintenance of freedom under the law than the American College of Trial Lawyers."

Justice O'Connor, also receiving an Honorary Fellowship, struck a similar theme, telling the Fellows, "You, more than anyone else, have both the opportunity and the duty to make our courts work and to cause people to respect our judicial system.

You have my support and you have my respect as you seek by your conduct to show the best path to others."

Speaking on behalf of the inductees, Judge William D. Browning of the U.S. District Court in Tucson, Ariz., stated, "Those who espouse the idea that a profession is more than the pursuit of money, power and prestige and who seek to improve it for future generations can find comfort in this College."

Chief Justice Warren E. Burger and Justices Lewis F. Powell Jr. and Byron R. White also attended the banquet.

In meetings of the Board of Regents that preceded the banquet, John P. Arness, William T. Egan and George P. Hewes III were elected to the board for four-year terms. Retiring Regents Robert M. Ervin, Daniel L. Garan and Robert V.P. Waterman were lauded for their service.

Samford University's Cumberland School of Law in Birmingham, Ala., winner of the National Trial Competition, was honored at a luncheon given for the inductees. Cumberland's Mark Rowe was honored as the best oral advocate of the competition. Connaught Mahony hosted a luncheon for the spouses of the inductees.

The new officers of the College were introduced at the banquet. They are: Gene W. Lafitte, president; Griffin B. Bell, president-elect; Robert V. P. Waterman, secretary; and R. Harvey Chappell Jr., treasurer. Outgoing president Gael Mahony, who presided over the meetings and banquet, was praised for his leadership.

President's Report



Gene
Lafitte

At my induction as president of the College, at the annual meeting in Chicago in August, I said that I will do all I can to further the aims of the College during my term. I look forward to working with all of you, and I know I can count on your support.

This is the second issue of the *Bulletin*, which was introduced last summer by my predecessor, Gael Mahony. The first issue drew enthusiastic responses, and I thank those who took the time to express their approval in writing. I urge you to inform the national office or myself of any events or issues, including state and regional ones, that you feel merit mention in the newsletter. Your thoughts will be carefully considered.

Highlighting this edition is a report on the states' implementation of the Model Rules of Professional Responsibility. The College is vitally interested in the adoption of the rules in the form in which they were approved by the American Bar Association House of Delegates. This includes important amendments sponsored by the College, and you will be asked to work for the adoption of these measures in your state.

There is other important work to be done in the year ahead. New proposed amendments to the Federal Rules of Civil and Criminal Procedure and the Rules of Appellate Procedure are being submitted for public comment by the Judicial Conference. By now you should have received a copy of the proposed rules along with an invitation to comment. The amendments will be referred to College committees for their recommendations on the positions we should take. I would appreciate your sending me copies of your individual responses, which I will pass on to our committees.

The fifth quadrennial salary commission is now being formed to recommend compensation levels for judicial, legislative and executive officials. The President will forward these recommendations, as well as his own, to Congress in his fiscal 1986 budget submission. After hearings, Congress will decide whether to accept or reject them in whole or in part. At the spring meeting in Maui, the Board of Regents pledged the College's support for appropriate compensation increases for the federal judiciary. Many of you will be called on to contact members of Congress individually to support these increases.

Regional meetings are emerging as an important supplement to our national ones. They provide an opportunity to enhance the fellowship aspect of the College. And they draw on the expertise of the Fellows and others to offer interesting professional programs. In many cases, arrangements have been made for

these programs to satisfy state continuing legal education requirements.

I have attended several of these affairs, and can attest to their value. These included one in June in St. Andrews by the Sea, New Brunswick, held by the Fellows from Quebec, the Atlantic provinces and New England. Later that month I attended a gathering of Fellows from the Northwest and British Columbia in Gleneden Beach, Ore. In July, Fellows in several Midwestern states held a meeting in Des Moines, Iowa. Fellows in Colorado, Wyoming, Kansas, New Mexico, Utah and Oklahoma held their first regional meeting in September in Colorado Springs.

Programs were scheduled in October for: California, Arizona, Nevada and Hawaii at the Hotel Del Coronado in San Diego; Kentucky, West Virginia, Tennessee and Ohio in Lexington, Ky.; and, for the first time, South Carolina and Florida on Amelia Island, Fla.

Finally, I'd like to acknowledge a debt we owe to Gwen Pruter, who served the College so well as acting executive director after the death of her husband, Dick. Thanks to Gwen, and to John Berwick and Fran Menuier in the national office, we managed well in the difficult time during which we searched for Dick's replacement. Many of you will have an opportunity to meet our new executive director, Bob Young, at the upcoming state and regional meetings or the spring meeting in Orlando, Fla. You will enjoy working with him.