

# THE BULLETIN

NUMBER 23

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## Professionalism and Lawyers' Fees

By E. Norman Veasey  
Chief Justice of Delaware

There is much that is justifiable in the current debate on "tort reform" and the sport *du jour* of "lawyer bashing." But there is much that is the product of generalizations, stereotyping and misunderstandings. I think we need to "call a time out" and look analytically at the problems to be addressed. We need to consider modest, but workable solutions.

I start with the general proposition that the problems we face with "litigation abuse" and the poor image of lawyers in the eyes of the public can be addressed by a coherent and cooperative, incremental approach by lawyers, judges, business people and civic leaders.

The bad news is that the lawyers around the country have an extremely poor public image. Members of the public tend to generalize, and condemn all lawyers. The good news is that only a minority—a small minority—of lawyers around the country abuse the system and are part of the problem. The majority—the vast majority—of lawyers around the country are ethical, professional and part of the solution. With the increased population of the national bar, however, even a small minority of miscreants means that we have too many lawyers producing problems.

For example, we have taken decisive steps to encourage civility in the conduct of lawyers litigating in our courts. In the recent nationally visible corporate takeover case, *Paramount v. QVC*, 637 A.2d 34, 52 (Del. 1994), we let it be known in plain language that misconduct by a Texas lawyer in a deposition in that case would not be tolerated in the future. Our trial courts have since adopted new rules which go beyond the standard federal rules in clamping down on deposition misconduct.

In Delaware we have a preceptorship and a 5-month clerkship program which everyone undergoes who aspires to be admitted to the bar. With the leadership of the Delaware State Bar Association, we are on the threshold of adopting an enhanced preceptorship program to mentor young lawyers in their first two years of practice in the hope that wise counseling by senior professionals will nip in the bud

includes a specific requirement for instruction in legal ethics. We are now enlarging that program to include added requirements for instruction in professionalism.

We do have serious national problems of hostility and greed among lawyers, and we have some problems in Delaware.

Two recent books demonstrate that: In *The Betrayed Profession* Ambassador Linowitz laments the decline in the practice of law. Dean Arthur Kronman's book *"The Lost Lawyer"* laments the departure from the scene of the "lawyer statesman" (perhaps it should be lawyer statesperson)—the old fashioned and highly visible practice where lawyers were leaders of the community (church, charitable drives, etc.).

I regard the glass not as half empty, but as half full for two reasons:

- (1) We are facing the problem institutionally; and
- (2) We are making some incremental progress.

I agree that the "nub" of the problem is that an ugly commercialism in the practice of law *appears* to be overtaking good, old-fashioned professionalism. But I think we can take modest, incremental steps to return to some semblance of "yesteryear."

The task is to pinpoint the causes of the problem and try to accomplish a cure. We do have the help of some surveys. Among other things, these surveys show three remarkable phenomena:

- (1) Members of the public who know

\*This paper is prepared from Law Day Addresses by Chief Justice Veasey presented to the Corpus Christi Texas Bar and Business Community on May 4, 1995, and the Wilmington Delaware Rotary Club on May 18, 1995.

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President Clinton welcomes the American College of Trial Lawyers President Charles B. Renfrew and the Anglo American Exchange Team Members to the White House during the Anglo American Exchange held September 9-16, 1995 in Boston, Massachusetts and Washington, D.C.

bad habits, crass commercialism and unprofessional conduct.

The Delaware Bar Association has a voluntary program for mediating or arbitrating fee disputes between lawyers and clients. Active consideration is now being given to a system of mandatory arbitration by court rule for such disputes.

In Delaware, like many states, we have mandatory continuing legal education which

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# PRESIDENT'S MESSAGE

On September 23, 1995, in San Antonio, Texas, it was my honor to be installed as the President of the American College of Trial Lawyers during the 46th year of the College. At this time I want to take this opportunity to thank Lively Wilson for his outstanding leadership and dedication to the College during this term as President.

The College year is off to a fast start having completed workshops in Laguna Niguel, California and Palm Beach, Florida for Standing Committee Chairs and State and Province Chairs. These workshops will help them in carrying out the important work of the College. I encourage you to get to know your State or Province Committee. Likewise, you should also know the Chairs of the Standing Committees of the College. It is through our committees that the College's work is carried out, and if you are interested in serving on one of these committees, I hope you will let me know. A current listing of State, Province and General Committee Chairs is included in this issue of the bulletin.

Throughout the United States and Canada, the College calendar continues to fill with meetings at the State and Province level, as well as major regional meetings. A calendar of these meetings, as well as the Spring and Annual meetings, is included on the back page of this bulletin. Your participation in these meetings will enhance the fellowship at the larger meetings of the entire college. I suggest that you mark your calendar now for the 1996 Spring Meeting on March 7-10 at the Westin La Paloma in Tucson, Arizona. Your President-Elect, Andy Coats, is preparing an outstanding program. In addition, we will have an exciting professional program on the subject of new technology available for use in the courtroom. Registration and hotel information will be sent to all fellows of the College after the holidays. I urge you to register as soon as possible in order to be able to reserve a place.

The Annual meeting will be held on October 17-20 at the Hyatt Regency in San Diego, California. The College has not met in San Diego since 1986 and the College is planning lots of things to see and do. Information regarding the Annual Meeting will be mailed to all Fellows during the summer months.



CHARLES B. RENFREW

There is much important work to be done in the year ahead. A number of the committees are engaged in some important work following several of the very high profile criminal trials which have taken place recently. Such issues as sequestering of the jury, television in the courtrooms, propriety of lawyers commenting on pending trials, lawyers being paid commentators during the pendency of a trial in various media, as well as the structure and role of juries, are being considered. The committee on Attorney-Client Relations is also engaged in a number of important matters involving the current issues that affect all of us and our relationships with our clients. The Mandatory Minimum and Sentencing Guidelines are also being reviewed by one of your committees.

We continue to distribute copies of the Code of Trial Conduct throughout the country, and to date we have distributed over 17,000 copies to courts and law schools. The reception has been extraordinary at all levels of the profession. The Code is making a significant contribution.

The nominating process is now being conducted by the State and Province Committees for those nominees who will be considered at the Spring Meeting. Please respond to the College polls immediately when sent to your area. In addition, I urge you to participate fully and make known to the State and Province Committees the names of persons whom you feel would be qualified for the College.

As we continue our efforts this year, I look forward to the opportunity of meeting and visiting many of you at College functions across the United States and Canada. —

If any Fellows wish to submit an article on an issue such as ethics or professionalism, we would be pleased to consider it for publication in the *Bulletin*.

## Professionalism and Lawyers' Fees

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lawyers the most like lawyers the least. That includes people who have had experience with lawyers either as clients or adversaries.

(2) Of the people who have hired lawyers, less than half believe that they were charged a fair fee.

(3) The public believes that a large majority of lawyers are "unethical," but interestingly, the public "defines" the "ethics" very broadly. The surveys show that the public is very exacting in its criticism. For example, the public believes that lawyers who do not promptly answer telephone calls are unethical.

Clearly, it is unprofessional for a lawyer to fail to answer telephone calls promptly. Usually the failure to answer telephone calls is not *per se* an ethical violation under the Rules of Ethics, but it is disrespectful and, if chronic, can lead to client neglect which is an ethical violation.

What is the difference between ethics and professionalism? Ethics is a set of rules which lawyers *must* obey. Violations of these rules can result in disciplinary action or disbarment. Professionalism, however, is not what a lawyer *must* do or *must not* do. It is a higher calling of what a lawyer *should do* to serve a client and the public.

In the 7th Circuit Court of Appeals a study was done on civility a few years ago. Considerable material was accumulated, including letters from members of the bar. One letter (which I believe is anonymous) is in the file of those conducting the 7th Circuit study. It is a letter from a lawyer that seems to typify the concerns of members of the bar. This lawyer said:

When I was young, I always understood that individuals became wealthy in manufacturing or real estate, but not in law. Lawyers were supposed to be respectable and trustworthy, albeit with a comfortable standard of living. ... However sometime during the last 15 years, many young persons entering the law adopted the belief lawyers were supposed to be rich and, lately [this was in the '80s] extravagantly rich. The greediest of the young lawyers ... seemed obsessed with material wealth ...

Seth Rosner, Chair of the ABA Standing Committee on Professionalism, said it well. I will try to paraphrase his articulation of the issue: The defining tension is between professionalism and money. We really have no choice. We simply must decide which is first. If the first priority is the highest level of service to clients and to the legal system, everything good should flow from that, not only self-esteem but also financial rewards. If, on the other hand, the first priority of a lawyer is making money and the goal is to make as much money as possible with clients being merely the means to that end, then bad things will flow from that.

Let's focus—for the moment—solely on fees as being a root cause—not the only cause—of both the problem of "litigation abuse" and the problem of the standing of lawyers. If we can identify some of the problems with lawyers' fees and come up with some of the solutions, we can make a small incremental step in restoring general public confidence. If we can find ways to deal with overcharging, hourly billing abuses, young lawyer dissatisfaction with billable hours, high hourly rates, contingent fee abuses, windfalls, lack of communication with clients, frivolous litigation, we will have done some good work.

Let's begin with the current ethical rule. In most jurisdictions the ethical rules on fees are governed by Rule 1.5 of the Model Rules of Professional Responsibility. In short, it provides as follows:

### Rule 1.5. FEES

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyers performing the service; and
- (8) whether the fee is fixed or contingent.

(b) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

(c) ... A contingent fee agreement shall be in writing and shall state the method

by which the fee is to be determined ...

The ABA Standing Committee on Ethics and Professionalism has recently issued two lengthy and detailed opinions dealing with fees. One opinion in December of 1993 goes into quite a bit of detail about hourly billing, prohibition of double billing, disclosure, out-of-pocket expenses, etc. The American Bar Association Section of Business Law is building on that opinion in its own detailed Statement of Principles, and focuses on in-depth understandings between lawyers and clients (up front and ongoing) on fees and expenses.

The second opinion issued in December 1994 relates to contingent fees. Basically this opinion says that contingent fees are ethical if they are in writing and the client is fully informed. According to the Opinion, a contingent fee may be ethical even if liability is clear and some recovery is certain, and a contingent fee agreement may provide for increases in the percentages for the lawyer's fee at later stages of the proceedings. This opinion has been criticized by the Hudson Institute which says

that this opinion has "faulty reasoning" and "reinforces the view that ethics regulation by the ABA is futile and self-serving." The Institute says the authors are in "lock step with the American Trial Lawyers Association."

In another development, the Manhattan Institute

last year came out with a regulatory proposal entitled "Rethinking Contingency Fees." This proposal emphasizes "early offer reform" and tries to focus on what is really "contingent."

With respect to hourly billing, there are considerable advances being made now where clients and lawyers reach an understanding and develop a "partnering" relationship based on "value billing," rather than hourly billing. One model is the one currently being used by DuPont and some other companies in managing litigation in large cases. DuPont calls the trend toward value billing a "tsunami" (in Japanese, a giant wave). The essence of the DuPont model is partnering between lawyer and client. The essential ingredients are communication, risk/reward sharing and technology. Basically, here is how it works:

First, in the DuPont model there is a parity of bargaining position between the lawyer and the client. When DuPont bargains with a sophisticated law firm there is no opportunity for the lawyers to take advantage of the client. So there is up-front communication and understanding. Second, the premise of the Model is that the billable hour as the sole basis for billing is wasteful, inefficient, and causes abuses and dissatisfaction. The agreement can be contingent, fixed or hourly or, more likely, a combination. There can be some base understanding about ongoing charges and a reward or bonus for successful result. Features of value billing are as follows:

- (1) hourly billing as we know it is "out";

"Professionalism is a higher calling of what a lawyer *should do* to serve a client and the public."



## Professionalism and Lawyers' Fees

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- (2) some form of a contingent fee is "in";
- (3) old law firm ties are reevaluated;
- (4) new ties are formed on a partnering concept;
- (5) risks and rewards are shared;
- (6) technology is the key in providing communications with the client and other law firms doing work for the clients so that the wheel is not reinvented; and
- (7) it can apply either to cases where the client is a plaintiff or where the client is a defendant.

Dan Mahoney, house counsel of DuPont who is a pioneer in the concept, has said: "The hallmark of these business management programs is that 'everything is on the table' and the focus extends well beyond cost cutting to embrace the far more significant trust of productivity enhancement and strategic partnering with suppliers and customers."

According to DuPont and outside lawyers who work with DuPont in major litigation, this Model is great and is the wave of the future. But, is it applicable only to big firms and big litigation? I submit that, based on partnering concepts, the DuPont model may well have some application to small businesses and individuals. But it can work only if these small businesses and individuals can be *empowered* so that the playing field is leveled—that is, lawyers and clients are in equal "bargaining" positions.

How does one empower the smaller clients? I think that cooperative efforts of courts, business leaders, bar associations and civil leaders can get this done, if we have the perseverance and patience to move forward.

I suggest that there is a clear chance for state courts as separate and independent branch of government to take a leadership role in curbing frivolous litigation and regulating lawyer's fees in a way that discourages waste and abuse yet rewards lawyers who produce value for clients. I say *state* courts because over 96% of all litigation is in state courts, and it is primarily the state supreme courts which regulate

lawyers' conduct. Working with—and not at cross purposes to—bar associations and other lawyers' groups, state courts can go a long way to solving many of the perceived and real problems of "litigation abuse." For example, maybe the rules might be changed incrementally, particularly in the area of disclosure and "partnership" between lawyer and client.

I suggest that this holistic and incremental approach may be more practical and can be more productive than massive and controversial "tort reform" legislative activity in Congress and State legislatures. I am not taking any position on proposed legislative measures such as "capping" punitive damages, joint and several liability and securities law reform. Those are legislative issues, not judicial issues. Lawyers fees and the regulation of lawyer conduct are judicial issues, and in some states—like Delaware—exclusively judicial issues.

We already have rules in Delaware and in federal courts which give us some tools. First, courts have inherent power to control frivolous litigation and misbehaving lawyers. I would prefer that we not have across-the-board "loser pays" legislation because of the unknown impact on access to courts by ordinary citizens. In addition to the courts' inherent powers, we have court rules which regulate groundless litigation and discovery abuse, permitting judges in egregious cases to impose attorneys' fees on lawyers and clients for groundless litigation or misconduct.

We also have a rule in our trial courts—Rule 68—which permits courts to impose court costs after an offer of settlement if the final verdict is less than the settlement offer. This is a weak and ineffective rule, and we should consider strengthening it to include attorneys' fees and to make it apply both to plaintiffs and defendants.

Bar associations can work with courts to improve professionalism with measures like expediting cases, enhanced mentoring of young or problem lawyers, arbitration of fee disputes, regulation of contingent fees and

trading in the billable hour for value billing.

What we need is a national dialogue leading to coherent solutions. Perhaps that dialogue could lead to uniform or model rules to be considered by supreme courts around the country.

Let's focus on what courts and bar associations can do, without legislation, to curtail "litigation abuse" and frivolous lawsuits:

(1) Courts can use inherent powers and existing court rules in egregious cases to award fees against a party or lawyer who abuse the litigation process;

(2) Courts can and should enforce Rule 11, Rule 30 and Rule 37 controlling lawyer conduct and permitting the awarding of attorney fees as sanctions for groundless litigation and discovery abuses;

(3) We need to rethink a modification or a new Rule 68 relating to fees and costs after rejection of a settlement offer either on a plaintiff's side or the defendant's side, perhaps along the lines proposed more than 10 years ago in the Standing Committee of Rules of Practice and Procedure of the U.S. Judicial Conference, a committee on which I am now privileged to serve.

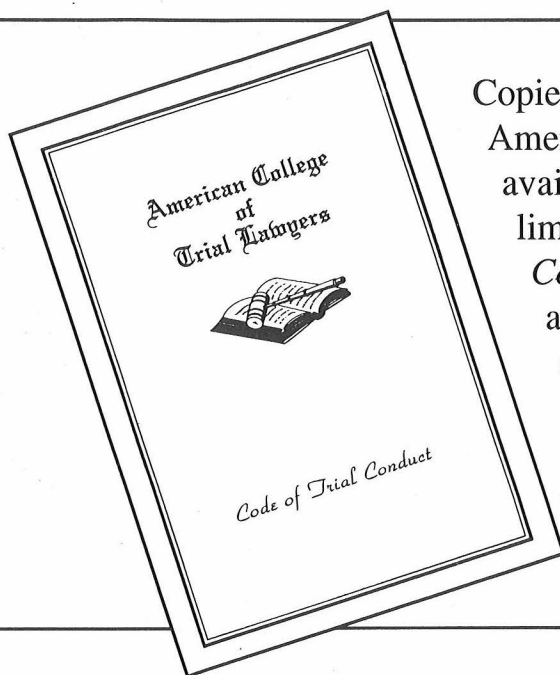
(4) Courts and Bar Associations should seriously consider mandatory fee dispute arbitration and mediation to assure that fees are reasonable as required by the Rules of Ethics.

(5) Courts and Bar Associations should develop mentoring programs to instill professionalism in young lawyers and others needing help.

(6) We should encourage value billing and consider regulating contingent fees, at least as to disclosure details so as to empower clients of modest means.

(7) Finally, courts and bar associations should speak out on the subject.

If we have a grass-roots cooperative effort in every county in this nation, we can develop a national dialogue leading to a coherent plan. If we address these issues holistically, we can take a big step toward rebirth of old-fashioned professionalism. In short, the glass is half full and not half empty. ■

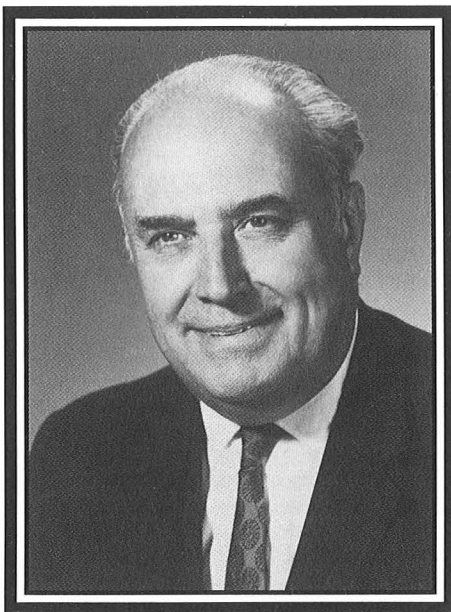


Copies of the *Code of Trial Conduct* of the American College of Trial Lawyers are available for complementary distribution in limited quantities. The *Code of Trial Conduct* was revised in 1994. Copies are available to State and Province Chairs and others who would like to distribute this important document. Please send your requests to the College office at 8001 Irvine Center Drive, Suite 960, Irvine, California 92718.



## In Memoriam

### Robert W. Meserve



(1909-1995)

Robert W. Meserve, of Waltham, Massachusetts and Cushings Island, Maine, an eminent trial lawyer, former President of both the American Bar Association and the American College of Trial Lawyers, long-time trustee of Tufts University, and a leader of numerous other educational, philanthropic and legal institutions, died in Boston on Thursday, September 21st. He was eighty six years old.

Mr. Meserve was born in Chelsea, Massachusetts on January 12, 1909, but was raised in Medford, the son of a motorman on the old Boston Elevated Railroad Company. After graduating from Medford High School, he earned his own way through college, graduating *magna cum laude* and Phi Beta Kappa from Tufts in 1931. When his meager savings were then lost in one of the many bank failures during the Great Depression, he received a loan from a Tufts Professor that enabled him to attend Harvard Law School. He graduated from Harvard *magna cum laude* in 1934 and was an editor of the *Harvard Law Review*.

Mr. Meserve joined the Boston law firm of Nutter, McClennen & Fish in 1934, but shortly thereafter, he left to become an Assistant U.S. Attorney trying both criminal and civil cases for the U.S. Government. During this time, Mr. Meserve continued to live in Medford and became active in local politics, serving as a member and then chairman of the Medford School Committee and as a member of the Board of Alderman. He also served as a lecturer at Boston College Law School.

In 1941, Mr. Meserve returned briefly to Nutter, McClennen before enlisting as an officer in the U.S. Naval Reserve in 1943. During the next three years, he served on board the escort carrier U.S.S. *Langley* and received seven battle

stars for action in the Pacific. In 1945, Mr. Meserve was discharged from the Navy as a lieutenant and returned to Nutter, McClennen where he soon gained national recognition as one of the top trial lawyers of his generation.

In 1973, Mr. Meserve left Nutter, McClennen to form the firm of Newman & Meserve, where he practiced for five years. In 1978, he joined the firm of Palmer & Dodge, where he continued to work as a trial lawyer until his retirement from that firm in 1984, at age 75. After a brief two year stint in the U.S. Attorney's Office, where he had started his legal career some five decades earlier, Mr. Meserve returned to Palmer & Dodge in and of counsel capacity in 1986.

Mr. Meserve served as President of the American Bar Association from 1972-73—only the second lawyer from Boston to hold that position and the first in the Twentieth Century—and he was a member of the House of Delegates of the American Bar Association for over thirty years. He also served as a member of the ABA's Standing Committee on the Federal Judiciary for four years and was Chairman of that Committee from 1963-65 when he helped screen, on behalf of the ABA, judicial nominees proposed by both the Kennedy and Johnson Administrations.

Mr. Meserve was extremely active in the American College of Trial Lawyers, serving as President of that organization from 1968-69 and as a member of its Board of Regents for many years. He was a member and president of the Boston Bar Association (1963-65), a member and secretary of the Massachusetts Board of Bar Examiners (1964-71), and the first Chairman of the Massachusetts Board of Bar Overseers (1974-78). He was President of the American Bar Foundation (1978-80) and a member for many years of its executive committee, a member of the executive committee of the American Judicature Society, and President of the Institute for Judicial Administration (1978-80). He was also the first Chairman of the Senior Lawyers Division of the ABA.

Mr. Meserve served on numerous committees for both the ABA and the U.S. Supreme Court. He was appointed by the Chief Justice of the U.S. Supreme Court as a member of the Advisory Committee on the Federal Criminal Rules, 1966-71, and the Federal Civil Rules, 1971-78, and was a member of Devitt Commission on Admissions to the Federal Bar from 1976-1982. In the early 1980's, he chaired an ABA committee that recommended extensive revisions in the code of ethics governing lawyers' professional conduct. He was also a member of the Massachusetts Bar Association, the Middlesex County Bar Association and the American Law Institute.

Mr. Meserve was a trustee of Tufts University for 25 years (1954-1979), and served as Chairman of the Tufts Board from 1965-1970. He was a lecturer at Harvard law School from 1956-1961, a member of the Visiting Committee to the Harvard Law School, and a participant in numerous Harvard Law School activities. He was a President of the Boston Floating Hospital from 1960-65, and after the 1965 merger that formed the New England Medical Center, he served as Vice

President of the New England Medical Center from 1965-72 and as an Overseer of that institution for many years thereafter. He was a Trustee of the Vermont Law School for approximately ten years, commencing in 1980. Mr. Meserve was a fellow of the American Academy of Arts and Sciences, served as President of the Phi Beta Kappa Associates, and received honorary degrees from seven colleges or universities, including Tufts, Villanova, Suffolk and St. Michael's.

Mr. Meserve received numerous awards for his service to the legal profession including the Whitney North Seymour Award from the American Bar Association, the ABA's gold medal, the American College of Trial Lawyers' Courageous Advocacy Award, and the Hosea Ballou Medal from Tufts University.

In a legal career that spanned over fifty years, he tried numerous antitrust cases from the motion picture industry and other significant civil litigation, including one of the longest cases ever tried in western Massachusetts, which involved control of the pension funds for the Springfield newspapers. He served for thirteen years as one of the trustees in bankruptcy for the Boston & Maine Railroad.

Mr. Meserve was a champion of legal education, of high standard of ethics and professionalism for members of the bar, and of improved access to the legal system for the poor and disadvantaged. He took most seriously the principle of "equal justice under law". No stranger to controversy, he was highly visible in leading a hotly contested national effort in the 1980's to strengthen the lawyers' code of professional conduct, in testifying in opposition to the nomination of Robert Bork as an Associate Justice of the U.S. Supreme Court, in handling a proceeding for the Supreme Judicial Court of Massachusetts involving alleged improper conduct by a judge of the Massachusetts Trial Court, and in opposing a Kennedy Administration nominee to the Federal judiciary in Massachusetts whom his ABA Committee had determined not to be qualified.

Mr. Meserve loved to read, sing and tell stories. He was well known for his wit, good humor and seemingly endless collection of jokes and stories, many of which had a distinctly New England flavor. He enjoyed sports, particularly football, and spending time at his summer home on Cushings Island off the coast of Maine or at the lakes and mountains of New Hampshire. Most of all, however, he loved his professional career and his family. He thrived on the intellectual challenges of practicing law and working with and teaching younger lawyers. He was never happy unless he was busy and observed in the last years of his retirement that, "It takes so long." When asked "What takes so long?", he replied, "Doing nothing."

In 1936, Mr. Meserve married the former Gladys Swenson, whom he had met when she was employed as a legal secretary at Nutter, McClennen & Fish. They were married for over fifty-seven years until her death in January 1994. She was an active participant in many of his bar activities, and her radiant personality helped make friends for the Meserves throughout the United States and wherever they lived or traveled. The Meserves resided in

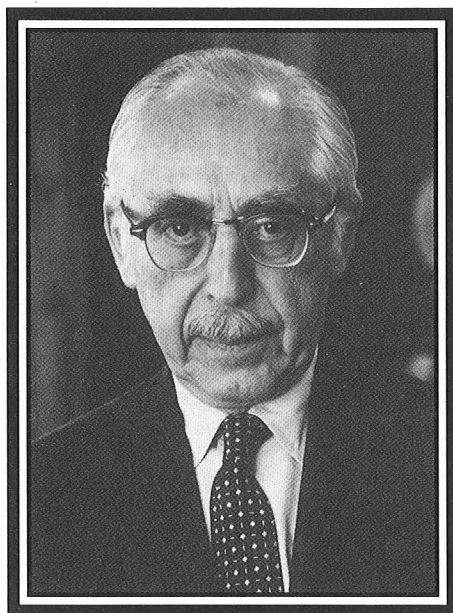
## In Memoriam

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Medford until 1949, when they moved to Waltham where they lived for the next forty-five years. Together they raised five children: Roberta M. Weil of Harpswell, Maine, a Vice President in the environmental consulting firm of Weil & Howe in Augusta, Maine; William G. Meserve, of Winchester, Massachusetts, a partner in the Boston law firm of Ropes & Gray; Richard A. Meserve, of Falls Church, Virginia, a partner in the Washington, D.C. law firm of Covington and Burling; John E. Meserve, of Topsfield, Massachusetts, a Vice President of the Salem Five Cents Savings Bank in Salem, Massachusetts; and Jeanne M. Meserve, of Washington, D.C., an anchor and correspondent for CNN. Mr. Meserve is also survived by twelve grandchildren.

A memorial service was held at Goddard Chapel on the Tufts University campus in Medford, Massachusetts on Thursday, October 5, 1995 at 2:30 p.m.

## In Memoriam Simon H. Rifkind



(1901-1995)

Simon H. Rifkind, a famously versatile lawyer whose clientele included the Municipal Assistance Corporation, Jacqueline Kennedy Onassis and needy Holocaust survivors, died Wednesday, November 15, 1995 at Lenox Hill Hospital in Manhattan. He was 94 and lived on the Upper East Side of Manhattan.

At his death, Mr. Rifkind was the senior partner in his New York-based law firm, Paul, Weiss, Rifkind, Wharton & Garrison, which has more than 90 partners and about 300 other lawyers.

The work of the firm encompasses corporate law, including mergers and acquisitions, and a

variety of litigation as well as trusts and estates and real estate law. It has offices in Washington, Paris, Tokyo, Beijing, and Hong Kong.

A former Federal District Court judge, Mr. Rifkind won renown as a trial lawyer. He continued to come in to his office at the firm until early this fall. He was increasingly frail recently and used a wheelchair for the last few months. In his last years, much of his professional time was spent advising lawyers in his firm on a wide range of matters.

In 1986, at age 85, he was one of six lawyers who argued on behalf of Pennzoil in a Houston courtroom in one stage of its landmark legal confrontation with its rival Texaco. The Pennzoil team was successful in its effort to persuade the Texas First Court of Appeals to uphold a judgment that required Texaco to pay Pennzoil \$10.53 billion in damages for interfering in Pennzoil's plan to acquire three-sevenths of the Getty Oil Company; the case was later settled for \$3 billion.

William O. Douglas wrote after his retirement from the United States Supreme Court that Mr. Rifkind became "the most outstanding advocate of all" the lawyers who appeared before the Court between 1939 and 1975.

As Mr. Rifkind's long career went on, he came to be seen as exemplifying the unspecialized, general practitioner lawyers who were widely supplanted, with the passage of the decades, by specialists who focused on relatively narrow areas of the law.

Mr. Rifkind's strengths included the ability to master vast quantities of data in new fields and to cut to the heart of the issues involved. He was so esteemed by the Supreme Court that it chose him in 1956 for the epic task of sorting out Western states' rival claims to water from the Colorado River.

For some years, Mr. Rifkind was prominent in other similar roles, as a referee in complicated legal actions and as a mediator in labor cases. In 1961, President John F. Kennedy chose him to head a study of railroad labor problems.

Mr. Rifkind also represented or advised such New York political figures as Mayor Robert F. Wagner and Gov. Hugh L. Carey as well as New York State Democratic leaders, whom he represented in 1965 and 1966 in intricate litigation about reapportionment.

Similarly, Mr. Rifkind worked in various ways for such prominent individuals in other realms as the restaurateur Toots Shor and J. Truman Bidwell, a former chairman of the New York Stock Exchange.

Mr. Rifkind spent seven decades, all told, in the world of the law. From 1927 to 1933, he was legislative secretary to Senator Robert F. Wagner, the New York Democrat who was Mayor Wagner's father. In that post, he helped draw up important New Deal measures. He was the Senator's partner in the New York law firm of Wagner, Quillinan & Rifkind from 1930 to 1941 and a Federal District Court judge in New York from 1941 to 1950. He joined Paul, Weiss in 1950 and was president of the American College of Trial Lawyers in 1976 and 1977.

Mr. Rifkind took a broad and personal view

of the lawyer's role. "Like an usher in a dark movie theater, holding the client by the hand, the lawyer guides him through the maze of law and regulation which now enmeshes all our lives," he said in a 1984 speech.

Over the years, he worked on behalf of a broad range of corporations and other organizations. Having specialized early in his career in bankruptcy matters, he played a prominent role in the formation in 1975 of the Municipal Assistance Corporation, the rescue agency for New York City in its mid-1970's brush with municipal bankruptcy. He became general counsel of the MAC and also acquired something of a reputation among New Yorkers as a behind-the-scenes operator who could get things done around the city.

In addition, Mr. Rifkind worked for General Motors, Lazard Frères & Company and other major clients in the business world.

But he was perhaps best known to the general public for his work on behalf of Mrs. Onassis. He represented her in two notable legal confrontations. The first was her struggle to keep William Manchester's 1967 book "The Death of a President" from being published.

She contended that it contained personal material that would cause her "great and irreparable injury" and that her rights had been breached by plans to have the work published without her approval.

Early in 1967, she withdrew a lawsuit she had brought against Mr. Manchester and the book's publisher, Harper & Row, when they agreed to deletions and changes before the book came out.

The second confrontation was in 1971 and 1972 between Mrs. Onassis and a persistent photographer of celebrities, Ronald E. Galella. In 1972, a Federal judge in New York ruled that Mr. Galella had "relentlessly invaded" her right to privacy and had interfered with her protection by Secret Service agents. The judge permanently enjoined Mr. Galella from approaching her or her children to take pictures of them. He also dismissed a suit that Mr. Galella had filed against her.

In 1945 and 1946, as an adviser on Jewish affairs for the Army in Europe, Mr. Rifkind championed uprooted Holocaust survivors who were then in Germany and Austria and made appeals for more aid to them. That experience helped lead him to champion the creation of the State of Israel and led President Harry S. Truman to award him the Medal of Freedom.

In 1970, he was retained by Justice Douglas, who had been his classmate at Columbia Law School, to be the Justice's own lawyer when he faced possible impeachment proceedings.

Mr. Rifkind, who liked to be called "Judge," was praised as pragmatic, quick-witted and hard-working, but he was also the subject of cooler appraisals. A 1983 sketch of Mr. Rifkind in *The New Yorker* observed that some judges called his courtroom style corny. It also quoted his partner Jay Topkis as saying "Rifkind has presented a lot of sinners, but as soon as he accepted their cases, to him they became angels. At that moment, he stopped being able to see their flaws."



## In Memoriam

CONTINUED FROM PAGE SIX

The subject of appraisals was physically a modest figure. In 1960, when the Colorado River controversy had put him in the limelight, he packed 140 pounds on his 5-foot-6-inch frame, and his blue eyes looked out owlishly through heavy-rimmed spectacles.

Yet he loomed large for years behind the scenes at Paul, Weiss, doing much to expand its roster of lawyers, its workload and its revenues.

Simon Hirsch Rifkind was born on June 5, 1901, in Meretz, Russia, one of the five children of Jacob Rifkind and Celia Bluestone. The boy was brought in 1910 to New York, where Jacob Rifkind was a woollens merchant on the Lower East Side.

Simon Rifkind graduated in 1922, from City College after being elected to Phi Beta Kappa. He received this L.L.B. degree from Columbia in 1925.

In 1930, he earned a niche in New York judicial history by becoming the person who reported the mysterious disappearance of a State Supreme Court judge, Joseph Force Crater, after the judge got into a cab outside a West 45th Street chophouse and was never seen again.

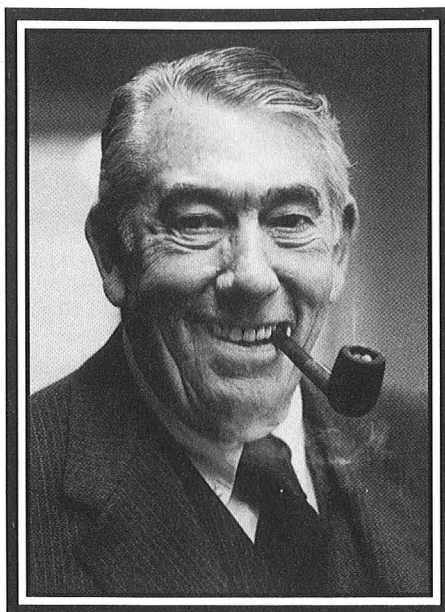
Mr. Rifkind's many community activities over the years included serving as a member of the New York City Board of Higher Education from 1954 to 1966. He also served as chairman of the administrative board and of the executive board of the American Jewish Committee and as chairman of the board of the Jewish Theological Seminary.

Judge Rifkind's wife of 57 years, the former Adele Singer, died in 1984.

He is survived by two sons, Dr. Richard A. Rifkind of Manhattan, the chairman of the Sloan-Kettering Institute for Cancer Research, and Robert S. Rifkind of Manhattan, a partner in the law firm of Cravath, Swaine & Moore, and four granddaughters.

A funeral service was held at the Park Avenue Synagogue, at 50 East 87th Street.

## In Memoriam Marcus Mattson



(1904-1995)

After practicing law in Los Angeles for over 60 years, Marcus Mattson died in San Mateo, California on Friday, November 17, 1995, at the age of 91.

During his career, Mr. Mattson was the Past President of the American College of Trial Lawyers, Chairman of the Antitrust Section of the American Bar Association, and a member of The Federal Trade Commission Advisory

Council on Rules of Practice and Procedure. In his service to the State Bar of California, Mr. Mattson was a member of the Board of Governors and served on the Committee of Bar Examiners.

In the 1960's Mr. Mattson represented a large group of electrical equipment manufacturers as a part of a landmark nation-wide antitrust case. In 1975, in the U.S. Supreme Court, Mr. Mattson successfully represented Standard Oil of California (now Chevron). He also represented General Motors, Chevrolet, and Miller and Lux, was a founder of the Pacific Legal Foundation, and served as a director of the Huntington Beach Company.

He was born in Ogden, Utah on July 3, 1904, where his father, David Mattson, was Secretary of State and was instrumental in gaining funding for Utah's current State Capital Building. In 1925, Mr. Mattson moved from Utah to Berkeley, California to attend The University of California. He graduated from Berkeley in 1927, and then earned his law degree from U.C. Berkeley's Boalt Hall Law School in 1930. During his studies at Boalt Hall, future Chancellor of the University of California, Robert Gordon Sproul, helped Mr. Mattson financially while he worked his way through school.

In 1930, Mr. Mattson moved to Los Angeles to join the prominent law firm of Lawler, Felix and Hall (now Arter & Hadden). In 1934 he married Eleanor Hynding whom he had met at the U.C. Berkeley. Mr. Mattson took "early retirement" as he humorously mentioned in 1990 at the age of 86.

Marcus Mattson is survived by his brother Ted Mattson of Reno, Nevada, son Peter Mattson of Hillsborough, California, grandson Andrew, granddaughter Marianne, and great-granddaughter Sophie.

## Fellows Appointed to the Bench

We are pleased to announce that the following Fellows have gone to the Bench.

**Joseph G. Donahey, Jr.**, formerly of the law firm Donahey, Goldenfarb & Burklin of Clearwater, Florida, was appointed a Circuit Judge of the Sixth Judicial Circuit of the State of Florida on March 6, 1995.

**Thomas Patrick Gurrán**, was elected in November 1994 to serve a six year term as Judge to the Court of Common Pleas for Cuyahogan County, Cleveland Ohio.

**Fred A. Hazouri**, formerly of the law firm Babbitt & Hazouri of West Palm Beach, Florida, was appointed Circuit Jidge of the Fifteenth Judicial Circuit of the State of Florida on October 30, 1995.

**Carlów F. Lucero**, formerly of the law firm Lucero, Lester & Sigmond was appointed Circuit Judge for the United States Court of Appeals of the Tenth Circuit in Denver, Colorado on July 22, 1995.

**James R. Muirhead**, formerly of the law firm McLane, Graf, Raulerson & Middleton of Manchester, New Hampshire, was appointed a Magistrate Judge, U.S. District Court of the District of New Hampshire on September 1, 1995.

**James P. Salmon**, has been appointed a Judge of Maryland Court of Special Appeals.

**Robert H. Whaley**, formerly Superior Court Judge for Spokane County has been appointed a Federal District Court Judge in Spokane, Washington.

In the future the College will make announcement of the Fellows who go to the bench. Please forward such information to the National Office of the College in Irvine, California.



# NEW FELLOWS INDUCTED AT 1995 ANNUAL MEETING IN SAN ANTONIO TEXAS

The College welcomes the following Fellows who were inducted into Fellowship at the 1995 Annual meeting in San Antonio, Texas.

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Alfred Gawthrop, Jr.  
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### TEACHING OF TRIAL AND APPELLATE ADVOCACY

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# COMMITTEE NEWS UPDATE

## STANDING COMMITTEES

### Emil Gumpert Award Committee

On November 1, President Charles B. Renfrew presented the 1995 Emil Gumpert Award, accompanied by a \$25,000 gift, to the Law School of Notre Dame for having the outstanding trial advocacy course in the country.

The Committee will hold its annual meeting on January 12 and 13, 1996 in order to begin the selection process for the 1996 winner. In addition to presenting an extensive application to the Committee, each law school is visited by two members of the College who act as evaluators and a representative of the committee who shepherd the application through the process and presents the nomination to the full Committee. Of course, we request that State Chairs and all members of the College encourage law schools to apply for the award. The past recipients have not only benefited by the monetary gift but the past recognition has promoted the trial advocacy program and the entire institution.

The Committee extends its appreciation to the former Chair, Payton Smith of Seattle, Washington, and Regent Liaison, Dennis Shackelford of El Dorado, Arkansas for the effort, energy and dedicated service they provided to the Committee in the past years.

Luis W. Fryman, Chair

### Federal Rules of Evidence Committee

The Committee continues to monitor the review of those Rules by the Judicial Conference Advisory Committee on Evidence Rules. At this time there are no pending proposals worthy of comment. In addition, the Committee is considering the issuance of a report on the law of evidence in federal sentencing proceedings. A draft report has been prepared and will be circulated within the Committee in the near future.

Michael A. Cooper, Chair

### International Committee

The fall activities of the International Committee centered around support for the second half of the Anglo-American Legal Exchange, which took place in September in Boston, and Washington.

Members of the College who participated in the exchange were ACTL President Charles B. Renfrew, ACTL past presidents Robert L. Clare and Frank C. Jones, and Judge William W. Schwarzer.

The judicial participants in the exchange were Associate Justices of the U.S. Supreme Court Anthony Kennedy, Sandra Day O'Connor, and Stephen Breyer, and Judge Barbara Crabb.

British participants included Lord Wolff of the House of Lords, Lord Hope from the Court of Sessions of Scotland, Lord Justice Leggatt and Sir Thomas Bingham of the Royal Courts of Justice, Justice Mummery of the Employment Appeal Tribunal; Hency Hodge, Sir Thomas Legg, David Pannick and Patricia Scotland, all Q.C.'s and Brian Sweeney, Lord Chancellor's Department.

Participants first met at the Harvard Law School in Cambridge Massachusetts, and then at the Federal Judicial Center in Washington, D.C.

The Committee also completed a project initiated by Committee member Weyman L. Lundquist, the preparation of a paper on "The Art of Advocacy" for translation into Russian for use in assisting Russian trial lawyer. The paper, written by Committee members Thomas D. Allen and James G. Apple, has been sent to the Institute of the United States and Canada in Moscow for translation and will be published in two magazines, one specifically for lawyer and the other a magazine of general circulation.

The committee is planning other projects for 1996 and beyond. Two legal exchanges are possible; one with judges and lawyers from Brazil, and one with judges and lawyers from South Africa.

A second potential program is a "books program," in which the Committee would solicit used law books from the libraries of ACTL Fellows for collection and shipment to developing countries in Central

and Eastern Europe, Africa, and possibly Asia.

The Federal Judicial center, with which the college is closely associated regularly conducts seminars for foreign judges, lawyers, and legal officials about the U.S. legal system, court system and related subjects. The FJC often needs speakers for these seminars on a variety of subjects. The Committee hopes to involve ACTL members as much as possible in these seminars. ACTL members who have participated in such seminars and international activities of the FJC in the past include ACTL past presidents Ralph Lancaster and Lively Wilson, Judge William W. Schwarzer, Edward Brodsky, William J. Brennan, III, Plato Cacheris, Jacob Stein, Marna Tucker and Judah Best.

The Committee also hopes to have prepared short papers on various aspects of the American legal system, similar to "The Art of Advocacy" paper referred to above, for translation and use by lawyers and judges from other countries.

Finally the Committee will continue to work with the International Judicial Relations Committee of the Judicial conference of the United States in support of its activities. That Committee is currently chaired by Judge Cynthia Hall of the U.S. Ninth Circuit Court of Appeals.

James G. Apple, Chair

### Mexico Committee

At its semi annual meeting in San Antonio the Mexico Committee welcomed several new Fellows. The Committee reviewed its agenda for the coming year and established three projects. These projects included (1) Providing assistance to the College in identifying a speaker from Mexico for an upcoming National meeting; (2) Preparation of an article or pamphlet for the ACTL Fellows regarding cross-border litigation (relevant treaties, statutes and cases regarding jurisdiction, service, discovery, evidence, enforcement of judgments and awards, etc.); (3) The continuance to explore informal contacts with Mexico Lawyers and judges. The Committee continues to increase the contacts between the two legal systems in spite of the economic and political challenges faced in Mexico.

Philip A. Robins, Chair

### Science and Technology in the Courts Committee

On March 9, 1996, at the Spring Meeting in Tucson the Science and Technology in the Courts committee will provide a substantive program on the visual presentation of evidence. Ric Gass, Judge Richard Bilby and other Fellows will demonstrate the following equipment and techniques, among other: Use of the visual scanner to enlarge and enhance images for the jury; a mixer video camera; computer animation; and cross examination by video using a CD-ROM or laser disc. The program is planned for 1:30 p.m. to 4:00 p.m. on Saturday afternoon and will afford CLE credit for those states permitting it.

Warren B. Lightfoot, Chair

### Special Problems in the Administration of Justice

The Committee is currently monitoring the activities of two projects of the American Law Institute and one project of the National Conference of Commissioners on Uniform State Laws. The American Law Institute is currently drafting a Restatement of the Law Torts: Products Liability and Restatement of the Law Torts: Apportionment of Liability. The National Conference of Commissioners on Uniform State Laws is drafting a Model Punitive Damages Act. The Committee has established liaison with both the ALI and NCCUSL to determine whether to make recommendations to the leadership of the College regarding adoption of an official position on any of these projects.

Richard C. Hite, Chair

## STATE AND PROVINCE COMMITTEES

### ALABAMA

On April 25-28, 1996 the Alabama State Committee will host an exciting weekend for Alabama Fellows and their guests. Point Clear, Alabama has been selected as the site of a weekend of fellowship, fun, and controlled frivolity along with a touch of CLE. President Charles Renfrew and Regent Harris Dittmar, with their lovely wives, will be Alabama's guests.

The *Code of Trial Conduct* has been distributed to all Alabama trial judges and is now being used by the state law schools in both the ethics and trial advocacy courses.

Charles A. Stakely, Chair

### NORTHERN CALIFORNIA

On October 27, 1995, the Northern California Fellows held their annual dinner at the St. Francis Yacht Club in San Francisco. In attendance were President Charles Renfrew and his wife Barbara, Regent John Martel and his wife Bonnie and State Chair David Larson and his wife Carol. Over 85 Fellows and guests enjoyed a spectacular sunset during the reception and dinner overlooking the San Francisco Bay and Golden Gate Bridge. Among the judicial Fellows enjoying a magnificent evening were Justice Clinton Peterson, the Honorable Paul Haerle, the Honorable Lowell Jensen, the Honorable Paul Coffee and the Honorable Susan Illston.

David O. Larson, Chair

### COLORADO

The Colorado Fellows were delighted to host the Fellows from the Tenth Circuit at our biannual Regional meeting in Vail last August. We had an excellent turnout, terrific weather and a most interesting and stimulating program about Special Prosecutors (featuring former special prosecutors and Fellows Lawrence "Ed" Walsh and Bob Fiske), and the timely topic of televised trials. We were delighted to have Past President Lively Wilson and Frances and President-Elect Andy Coats and Linda in attendance.

This year started out on a good foot when we managed to get the ACTL *Code of Trial Conduct* included in the materials for the Colorado Bar Association course on Professionalism, which is mandatory for all newly admitted Colorado lawyers. Thus, the Code will be distributed to some 1,500 new lawyers in Colorado each year.

Richard P. Holme, Chair

### IDAHO

In August of 1995, Idaho hosted the Northwest Regional meeting at Coeur d'Alene, Idaho. An outstanding program was presented including the Honorable Charles McDevitt, Chief Justice of the Idaho Supreme Court; David Nevin, one of the attorneys for Kevin Harris in the Randy Weaver encounter at Ruby Ridge; Don Shultz, Past President of the American Board of Trial Advocates; and Robert Minto, President and C.E.O. of A.L.P.S. who conducted an ethics presentation. The Northwest meeting was well attended and received many favorable comments. The program entitled the participants to C.L.E. credits determined by the various states. In addition to the program the social events were enjoyed by Fellows and guests.

The Idaho Committee continues to distribute the new members of the Idaho State Bar copies of the *Code of Trial Conduct* published by the College.

William A. Parsons, Chair

### LOUISIANA

On December 2, 1995, the Louisiana Fellows held its annual dinner at Antoine's Restaurant in New Orleans. Our guests included the officers of the College who were present in New Orleans for an Executive

Committee meeting on December 3. Dinner was held in the Japanese Room and a history of the restaurant and the room was given by Henry B. Alsobrook, Jr.

Louisiana Chief Justice Pascal Calogero has authorized the distribution of the *Code of Trial Conduct* to the judges of the State of Louisiana, and copies of the *Code* were delivered to each of the judges in October, along with a cover letter explaining some of the history of the *Code* and information regarding the American College of Trial Lawyers.

The Louisiana Fellows have also distributed copies of the *Code* to graduating seniors at some of our law schools and await word from other law schools as to whether or not the *Code* can be furnished to law students in those institutions.

Southern University Law Center in Baton Rouge was the host of Regional Competition for the Annual Moot Court Competition sponsored by the American College of Trial Lawyers. A number of Fellows acted as judges in that competition.

Edward J. Rice, Jr., Chair

### MASSACHUSETTS

For several years the Fellows practicing in the greater Boston area have served as volunteer mediators in the Massachusetts Superior Court. We continue to provide that service, which has recently been expanded to a third county. Originally, this program was devised to help the Court reduce its backlog of cases. The nature of the program has changed somewhat in recent years, with the result that our caseload has been reduced from one full day a week to one mediation every two weeks. However, we continue to assist with complex cases, and the settlement rate is quite high. We would recommend this type of program to Fellows in other states.

Upcoming events for the Massachusetts Fellows include the Annual Fellows dinner to be held on Friday, January 19, 1996 the meeting of the Northeast Region will be held on June 7-9 at the Chatham Bars Inn on Cape Cod.

Joseph D. Steinfield, Chair

### VIRGINIA

As a result of the work of Ronald Hodges from Harrisonburg, Chief Justice Harry L. Carrico of the Supreme Court of Virginia authorized the distribution of the *Code of Trial Conduct* to all members of the Faculty of the mandatory State Bar Professionalism Course during the orientation and training session in October. Copies of the *Code* will also be distributed to all newly admitted members of the Virginia Bar beginning with the course held in December.

Copies of the *Code of Trial Conduct* were given to a group of students from the trial advocacy program of William & Mary's Marshall-Wythe School of Law during the joint meeting of Virginia, Maryland and District of Columbia Fellows at the Williamsburg Inn in October. The students were invited to attend the program portion of the meeting which featured talks by Fellows on professionalism and alternative dispute resolution.


In addition, ten Virginia Fellows participated as judges for the Region IV National Moot Court Competition finals in Richmond on November 10-11. As a co-sponsor of the event, the College presented a silver bowl to the best oral advocate and six medallions to the finalists.

The Annual black-tie dinner is on Friday, January 26, 1996, at The Commonwealth Club in Richmond to be followed by a brunch at the Club on Saturday morning hosted by the Northern Virginia Fellows.

Fred C. Alexander, Jr., Chair

### WISCONSIN

Thirty Fellows and their guests met on September 29-October 1 at the American Club in Kohler, Wisconsin, for the Fall meeting of the Wisconsin State Chapter of the College. The event began with an informal reception and dinner held on Friday night at Blackwolf Run Golf Course. Saturday began with a professional program in the morning with golf and other activities on Saturday afternoon. At a reception and dinner on

Saturday evening, U.S. District Judge Thomas J. Curran (Judicial Fellow) made a gift presentation to the Honorable Terence T. Evans in recognition of Judge Evens' recent appointment to the U.S. Court of Appeals for the Seventh Circuit. Other guests and speakers included President-Elect Andrew M. Coats of Oklahoma City and Regent Wm. Bruce Hoff, Jr. of Chicago. W. Stuart Parsons of Milwaukee was in charge of the professional program which included an informative and entertaining presentation on computer-generated animation as a form of demonstrative evidence by DecisionQuest of Torrance, California. Attendees included Fellows from Northern Illinois, The Wisconsin Chapter is planning a luncheon meeting on January 26, 1996, in conjunction with the Mid-Winter Convention of the Wisconsin Bar Association to be held in Milwaukee. 

Richard C. Ninneman, Chair



*Seasons  
Greetings*



## 1996 ACTL SPRING MEETING March 7-10, 1996 – WESTIN LA PALOMA TUCSON, ARIZONA

### Advance Program Information

#### PRESIDING:

**CHARLES B RENFREW**, President  
San Francisco, California

#### Invited Speakers and Distinguished Guests

(Listed in alphabetical order, tentative at print date. Other participants will be listed in the final program. Final program subject to change.)

**Honorable Stephen Breyer**  
Associate Justice  
United States Supreme Court  
Washington, DC

**Honorable Charles D. Gonthier**  
Associate Justice  
The Supreme Court of Canada  
Ottawa, Canada

**Honorable Abner Mikva**  
Chief Judge  
United States Court of Appeals  
Washington, DC

**Gordon F. Proudfoot**  
President  
The Canadian Bar Association  
Ottawa, Canada

**Roberta Cooper Ramo**  
President  
American Bar Association  
Chicago, IL

**Olga Sanchez Cordero de Garcia V.**  
Justice  
The Supreme Court of Mexico  
Mexico City, Mexico

### Schedule of Events

#### WEDNESDAY, MARCH 6, 1996

1:00 pm - 5:00 pm Registration/Information

#### THURSDAY, MARCH 7, 1996

9:00 am - 6:00 pm Registration/Information  
12:00 noon - 6:00 pm Hospitality Area  
7:00 pm - 9:00 pm Welcome Reception/  
Hors d'oeuvres

#### FRIDAY, MARCH 8, 1996

7:00 am - 8:30 am General Committee Meetings  
7:30 am - 5:00 pm Registration/Information  
7:30 am - 8:30 am Continental Breakfast  
8:30 am - 11:30 am General Session  
12:30 pm Golf Tournament  
(Advance Sign-up Required)  
12:30 pm Tennis Tournament  
(Advance Sign-up Required)  
1:00 pm - 5:00 pm Optional Tours  
7:00 pm - 11:00 pm Reception/Dinner  
(Theme Night – 50's Party  
Cocktails/Buffer/Dancing)

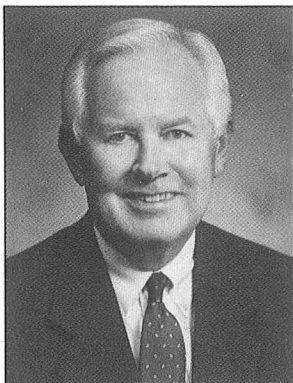
#### SATURDAY, MARCH 9, 1996

7:00 am - 8:30 am General Committee Meetings  
7:30 am - 5:00 pm Registration/Information  
7:30 am - 8:30 am Continental Breakfast  
8:30 am - 11:30 am General Session  
11:30 am - 1:30 pm Inductee Luncheon  
(By Invitation Only)  
1:30 pm - 4:00 pm Professional Seminar  
7:00 pm Reception  
8:00 pm Spring Banquet  
(Formal Attire)  
Induction of New Fellows  
10:00 pm Dancing  
10:00 pm Sing-A-Long

Room reservations in the ACTL room block can only be reserved with the official room reservation envelope. No rooms in the ACTL room block can be reserved unless you are registered and confirmed for the meeting.

*Materials will be sent early January, 1996.*





# REPORT OF THE IMMEDIATE PAST PRESIDENT

Lively M. Wilson

This has been another active year for the College. It has been one of consolidation of the structural and timing changes initiated last year.

These included a change in the fiscal year, changing the term of state and province committees to begin with the Annual Meeting, and changing the dates of the leadership workshops.

We have seen an implementation of the recommendations of the Long Range Planning Committee as the committees on Access to Justice and Legal Services and Science and Technology in the Courts have begun their work. Other standing committees have taken on significant tasks suggested by the Long Range Planning Committee. While the work of the various committees is set out later on in more detail, I want to highlight some of their activities.

One of the projects undertaken by the College this year was the distribution of the revised Code of Trial Conduct. The Code, with its foreword by Chief Justice Rehnquist, was exceptionally well received by the Fellows and the Federal Judiciary. Since that time, largely through the work of the various state committees, over 15,000 copies have been distributed. It is being used as a primary teaching resource in many trial advocacy courses in the law schools. It is furnished to each lawyer admitted to practice in Delaware. It has been distributed to literally hundreds of state trial court judges. Many Fellows are using the Code in trial practice seminars and other programs at their bar meetings. To assist Fellows in this endeavor, the committee on Teaching of Trial and Appellate Advocacy has prepared a syllabus together with videotaped illustrations of the application of the Code to specific problems. As the courts and the bar generally recognize that the Code represents the standards to which the outstanding trial lawyers practice, it will, hopefully, become the standard for the profession.

One of the challenges to the College, indeed to the justice system, is that created by high profile litigation. There is no easy solution to the competing demands of the First and Sixth Amendments, but there must be a way to accommodate responsible freedom of speech and the press and the parties' right to a fair trial. In an effort to contribute to a solution to that problem, an expanded Legal Ethics Committee has begun to examine the whole area of trial and pretrial publicity, including the methods used to provide that publicity. It is a daunting task, but one that is worthy of the best efforts of the College.

The College has a brief but distinguished history. In order to preserve that heritage, the College, through its History Committee, has commissioned the writing of a history of the College. With the generous support of the West Publishing Company, the committee has contracted with Covington Ellis & Associates to produce a history that will be completed and

published in the year 2000 to coincide with the 50th Anniversary of the College. The writers have already started their research. They are interviewing members, researching the archives at the College office, and looking at a veritable treasure trove of photographs by the College's official photographer, Peggy Clare. The publication will, itself, be a significant event in the life of the College and will be part of an expanded meeting when we celebrate our 50th Anniversary in Washington in 2000.

It has also been a year of challenge as we have tried to respond to proposed legislative changes and criticisms of the justice system engendered by high profile litigation. Some of the first bills introduced after the mid-term election in 1994 dealt with legal and judicial reform. While the College promotes change that results in improvements to the administration of justice, some of the proposed legislation ran counter to positions previously taken by the College. These changes included mandatory sanctions under Rule 11, punitive damages, standards for the introduction of scientific testimony, and joint and several liability. The College had previously issued monographs or position statement papers on each of those subjects. We had the opportunity to meet with the Chairman of the Senate Judiciary Committee and gave the committee copies of the College's monographs. We have every reason to believe that the committee was persuaded by the logic of the College's position.

In addition to the proposed substantive legislation, the committee on Access to Justice and Legal Services took a strong position on continued adequate funding of the Legal Services Corporation.

The results of these efforts remain unclear. While the College is not and should never become a lobbying organization, it is incumbent upon us to speak out when any organization or institution threatens our system of justice.

Let me mention one other aspect of the year that has been a personal highlight. It was my privilege to be inducted as President at the Annual Meeting in Ottawa. That meeting produced the momentum for increased involvement by the Canadian Fellows. We met with the Quebec Fellows in Montreal and the British Columbia Fellows in Vancouver. We were privileged to attend the meeting of the Canadian Bar in Winnipeg and had a dinner for all of the Fellows attending the Canadian Bar. If plans go as scheduled, this next year we will see the first Canadian National Trial Competition sponsored by the College. The Canada-U.S. Committee is reviewing the Code of Trial Conduct to determine its applicability to Canadian practice. The Board in San Antonio will be asked to create a Canadian Judiciary Committee to provide the same kind of support for the Canadian Judiciary that is now provided by the Federal and State Judiciary Committees of the College. All of these activities will enhance the standing of the College in Canada and will ensure that the border will not be a barrier to the full participation of all fellows in the work and life of the College.

## GENERAL AND AD HOC COMMITTEES

The work of the College is carried on by the various standing and ad hoc committees. It has been a hallmark of the College that it speaks with one voice. Each committee strives for members that will bring different perspectives and viewpoints to the committee work and this gives their work the balance that enables it to be accepted as authoritative by the larger legal community.

The following is a brief summary of some of the major activities of the committees.

### Access to Justice and Legal Services

Almost the first issue the committee faced was a proposed drastic reduction in the budget for the Legal Services Corporation. The committee adopted a resolution requesting that adequate funding be continued and communicated that position to the appropriate members of Congress.

The committee concluded that the needs of any particular state, with respect to access to justice for both the poor and those who make too much money to qualify for legal assistance but not enough money to retain private attorneys, are unique to state or region. Given these differences, the committee is working with a concept which would include a recommendation that each state committee appoint a subcommittee whose sole focus would be to design a program that would seek to meet the particular access to justice and legal services need within that state. To assist each subcommittee, the committee is preparing a menu of possible opportunities which could then be furnished to the various state subcommittees. The Downstate New York Committee is initiating a pilot program in which it would seek to develop a consensus among Fellows in downstate New York that, consistent with the goals of the College and the Code of Professional Responsibility, senior lawyers should be undertaking regular personal pro bono commitments. It is the objective of the pilot program to see to it that the range of options would be suitable to lawyers at different points on the political spectrum, and it would be the intent that the senior members of the trial bar, who are Fellows of the College, would choose matters that are consistent with their exceptional experience and talents.

John J. Bouma, Chair

### Adjunct State

This committee received one nomination from the state committee for Northern California which, after investigation, was referred back to the Northern California Committee for further action.

Alex W. Newton, Chair

### Admission to Fellowship

The committee continues to stress the necessity for the state committees to be proactive in the identification of qualified women

## Report of the Immediate Past President

CONTINUED FROM PAGE 14

and minority candidates as well as lawyers whose practice as trial lawyers is in specialties that have not traditionally been represented in the College. The committee urged the state committees to diversify as one means of identifying qualified candidates. The committee also expressed concern that the criteria used in defining the level of experience required for admission to the College may no longer serve the College's purposes. The committee recognized the present nature of practice and the limitation of actual trial work. It recognized this as a policy issue which should be the subject of long range planning on the part of the College.

Michael E. Mone, Chair

### Alternatives for Dispute Resolution

A number of issues involving ADR were identified by the Long Range Planning Committee. The committee is currently considering the preparation of standards for mediation. At present, key issues such as *ex parte* conferences, confidentiality, qualifications of mediators, conflicts of interest, etc. go unaddressed and leave the parties in the dark as to how these issues would be dealt with by the various providers of mediation services. The committee was also represented at the meeting of the National Pre-Suit Mediation Program during the American Bar Association Meeting in Chicago.

Shaun S. Sullivan, Chair

### Attorney-Client Relationships

This committee has been concerned with modifications of the Rules of Professional Conduct which would allow *ex parte* communications during the course of government investigations into alleged criminal conduct. The committee considered a request from the Delaware Supreme Court and expressed the opinion that such a change would be inappropriate and furnished an opinion to that court outlining the reasons for its position. The committee is also monitoring a proceeding by the Grievance Committee of the State of New Mexico. The proceeding is against an Assistant U.S. Attorney in Washington, D.C. for contacting a represented party in Washington, D.C. The attorney was licensed in New Mexico. Two cases have been brought by the Department of Justice in an unsuccessful attempt to block a New Mexico investigation of this conduct. The question presented is, under such circumstances, can a lawyer rely upon the rules in the jurisdiction in which the transaction occurred?

In addition to the *ex parte* contact issues, the committee is undertaking projects that deal with conflicts of interest and possible malpractice liability for the failure to obtain informed client consent for tactical trial decisions.

Raymond J. Turner, Chair

### Award for Courageous Advocacy

Based upon this committee's recommendation, the Board of Regents conferred the Award for Courageous Advocacy upon Julius L. Chambers, a Fellow who is now Chancellor of the North Carolina Central University. The award was present to Mr. Chambers at Ottawa. This is not an award that is done on an annual basis, and the committee is now investigating suggestions for recipients of the award in the future.

J. Donald Cowan, Jr., Chair

### Canada-United States

This committee has had a very active year. It is in the process of organizing a National Trial Competition among the law schools in Canada. The committee is also reviewing the Code of Trial Conduct to see what, if any, modifications are necessary in order to make it applicable to practice in Canada. Finally, at the suggestion of this committee, the Board of Regents will be asked to create a Canadian Judiciary Committee to serve the same purposes in Canada that the Federal and State Judiciary Committees serve in the United States.

Robert P. Armstrong, Q.C., Chair

### Complex Litigation

The committee is involved in formulating a plan for handling mass tort litigation. The plan responds to a challenge from Judge Schwarzer when he spoke to the meeting of the College in Amelia Island. Among the issues raised and to be considered by the committee are further state and federal coordination, more defined procedures for expedited appellate review, and judicial or legislative solutions to the problem of multiple punitive damages. From a broader perspective, do some or all of these cases belong in the courts? Many are work place injuries. Are there alternatives to the present system of judicial resolution which would satisfy the established goals.

Edward W. Madeira, Jr., Chair

### Federal Civil Procedure

This very active committee continues to study all proposed changes in the Federal Rules of Civil Procedure and to meet regularly with the Advisory Committee on Civil Rules of the Standing Committee of the Judicial Conference. The committee is authorized by the Board of Regents to express its views on proposed rule changes as a committee of the College to the Advisory Committee. Currently before the committee are proposed changes in Rule 5(e) – Electronic Filing; Rule 15(a) – Amendment of Pleadings; Rule 23 – Class Actions; Rule 26(c) – Modification of Protective Orders; Rule 43(a) – Remote Testimony; Rule 47(a) – Lawyer Voir Dire; Rule 48 – Twelve Person Jury; Rule 53 – Masters; Rule 56(c) – Affidavits on Motions for Summary Judgment; and Rule 68 – Offer of Judgment.

Kenneth J. Sher, Chair

### Federal Criminal Procedure

As a result of concerns expressed by the Long Range Planning Committee, the committee was asked to study the impact of the sentencing guidelines and minimum mandatory sentences on the civil trial docket.

Plato Cacheris, Chair

### Federal Judiciary

The primary function of this committee is to serve as liaison to the Federal Judicial Center. The Honorable Rya Zobel became the Director of the Federal Judicial Center in 1955 succeeding the Honorable William W. Schwarzer. A number of projects are being discussed by the committee and the Federal Judicial Center that will be acted on at the meeting of the committee in San Antonio.

Marna S. Tucker, Chair

### Federal Rules of Evidence

The committee continues to monitor proposals to amend the Federal Rules of Evidence and, in that connection, assisted in the preparation of statements by the College to Congress opposing proposed amendments to Rule 702 on the introduction of scientific evidence. The committee is considering preparation of a report on the applicability of the Federal Rules of Evidence to criminal sentencing proceedings.

Michael A. Cooper, Chair

### Fundraising

The committee continues to gather information useful in the planning for and the conduct of a fundraising campaign. It awaits the activation of the new American College of Trial Lawyers Foundation.

Wayne Fisher, Chair

### Samuel E. Gates Litigation Award

The committee continues to actively consider candidates for the award, and it is anticipated that there will be a recommendation at the meeting of the College in San Antonio.

Thomas D. Barr, Chair

### Emil Gumpert Award

This year the Emil Gumpert Award was given to the trial advocacy program at the University of Notre Dame. Currently the committee is considering applications from a number of other law schools and, with the assistance of Ralph Lancaster and Bob Armstrong, is encouraged several Canadian law school applications. At the meetings of the Board of Regents at Amelia Island, the Board increased the award from \$25,000 to \$50,000. While there has been no shortage of applicants, this increase in the award should encourage others to apply.

Payton Smith, Chair

### History Committee

This committee is in the process of supervising the development of a comprehensive history of the College. The committee has contracted with Covington Ellis & Associates to research and write the history. It is anticipated that it will be completed and be a part of the College's 50th Anniversary celebration at the Annual Meeting in Washington, D.C. in the year 2000. This project is being undertaken with the generous support of West Publishing Company.

John C. Elam, Chair

### Committee on Honorary Fellowship

This committee had a number of recommendations that will be acted upon by the Board at its meeting in San Antonio. Recommended for Honorary Fellowship in the College are Justice Stephen Breyer, Associate Justice of the United States Supreme Court; Lord Browne-Wilkinson, Lord of Appeal in Ordinary, House of Lords; Charles D. Gonthier, Associate Justice of the Supreme Court of Canada; Sir Andrew Leggatt, Lord Justice of Appeal. While all of them have accepted, their induction into the College has not yet been scheduled.

Robert L. Clare, Jr., Chair



## Report of the Immediate Past President

CONTINUED FROM PAGE 15

### International

The second half of the Indo-American Exchange took place from May 14-26, 1995 starting in Washington, D.C. and continuing in Williamsburg, Virginia and concluding in New York. The Indian Delegation consisted of the Chief Justice of India, members of the Supreme Court of India, and several leading lawyers from India. On the American side, the participants included Justices Scalia and Ginsburg of the United States Supreme Court and the Courts of Appeals and members of the College. The Exchange included round table discussions of various topics among the delegates, a reception at the White House, a reception at the Supreme Court and visits to federal courts. As with other Exchanges, the members of the College who participated pay their own expenses.

Edward Brodsky, Chair

### Investment Committee

This committee monitors investment strategy of the College funds.

Edward Brodsky, Chair

### Legal Ethics

The committee is reviewing the College's bylaws governing termination or suspension of fellowship for conduct injurious or discreditable to the College or the profession or inconsistent with the purposes of the College.

The committee's report to the Board of Regents on pretrial and trial publicity has prompted the Executive Committee to request the committee to undertake a study of the whole spectrum of questions raised by high profile litigation including TV in the courtroom, media coverage of trials, out-of-court statements to the media by counsel involved in the case and paid for comments on TV by so-called legal experts not involved in the case. Work on the project is underway and ongoing.

### Mexico

This committee has intentionally remained on hold in light of economic developments in Mexico in 1995. It continues to monitor the situation, particularly recent developments in the trial and alternative dispute resolution area. The committee proposes to formulate a plan of action that would include the development of informal cross-border contacts that would enable the College to have involvement in the U.S./Mexico dispute resolution process.

Philip A. Robbins, Chair

### National College of District Attorneys

For a number of years, the College has provided financial support to the National College of District Attorneys located in Houston. Members of the College serve on the Board of that organization and play an active role in its affairs. During the first six months of 1995, the funds provided by the College have made it possible for 33 prosecutors from 15 states to attend the career prosecutor course, trial advocacy courses, the strategic criminal litigation course, and courses dealing with violent assaults and prosecution of drug cases. These courses include instruction on the role of the prosecutor and ethical duties as well as enhancement of trial skills.

Carol S. Vance, Chair

### National Moot Court Competition

For many years, the College has served as co-sponsor of the National Moot Court Competition, along with the bar of the City of New York, assisting in the recruitment of Fellows to serve as judges at the various levels of the competition. It has become a tradition that the President of the College serve as a member of the court in the final round of the competition held in New York City in January. In accordance with long-standing custom, the winners of the 1994 competition were invited to attend the Spring Meeting at Amelia Island. The winning team was from Fordham University.

Bettina B. Plevan, Chair

### National Trial Competition

The College served again this year as a co-sponsor of the National Trial Competition, the finals of which were held in Houston Texas in March. Over 200 teams from over 100 law schools participated with 24 teams competing in the final rounds at Dallas. The competition was won by Temple University Law School and the participants have been invited to attend the annual meeting in San Antonio at which time the Kraft W. Eidman Award, including a monetary award of \$5,000 and a silver bowl, will be presented to the winning team and the George A. Spiegelberg Award plaque will be presented to the Best Oral Advocate.

David S. Cupps, Chair

### Lewis F. Powell, Jr. Lectures

The second in the series of Powell Lectures will be presented at the Annual Meeting of the College in San Antonio. The speaker will be John J. Jeffries, author of a biography of our Mr. Justice Powell.

Gene W. Lafitte, Chair

### Professionalism

The committee prepared Canons of Professionalism which were approved by the Executive Committee and will be presented to the Board of Regents at its Annual Meeting in San Antonio. The committee is currently exploring a potential relationship with the Center on Professionalism at the University of Pennsylvania Law School. Representatives of the committee are meeting with representatives of the school to discuss the prospect of a joint project.

William J. Brennan, III, Chair

### Publications

The committee has successfully published quarterly issues of the Bulletin during 1995. These are substantive issues with a great deal of information about general, state and province committee activities as well as remarks of the principal speakers at the Spring and Annual Meeting.

Edward J. Rice, Jr., Chair

### Science and Technology in the Courts

This is a new committee created pursuant to a recommendation of the Long Range

Planning Committee. Its primary purpose is to monitor developments in the fields of science and technology in the courtroom and to monitor their effects on trial advocacy. The committee is currently working on a program to be presented at a future meeting of the College.

Warren B. Lightfoot, Chair

### Special Problems in the Administration of Justice

In February, the Executive Committee asked this committee to review the provisions of House Bill H.R. 10, commonly referred to as the "Common Sense Legal Reforms Act of 1995." Information was obtained and reviewed by committee members and the committee submitted its comments and recommendations on the provisions of the bill to the Executive Committee. The committee was also asked to prepare a position paper on the provision of the bill proposing a "loser pays" rule for all diversity cases filed in federal court. The committee came to the conclusion that the College should oppose the proposed legislation because the impact of "loser pays" had not been adequately studied or debated and, without such study, it was not possible to weigh the purported benefit from the legislation against the impact on those seeking access to the courts. Papers were submitted by the College to the Senate Judiciary Committee.

The Special Problems Committee continues to be active in its liaison role with the American Law Institute and with its committee to monitor developments in the jury system.

Garr M. King, Chair

### State Judiciary Committee

This is a new committee created in response to suggestions from the Long Range Planning Committee and recognition of the fact that concerns of the Federal Judiciary and the State Judiciary could be quite different. At its initial meeting, the committee considered mechanisms for supporting merit selection of state judges and reasonable judicial compensation in the several states.

Jervis Spencer Finney, Chair

### Teaching of Trial and Appellate Advocacy

This committee drafted a teaching guide to be used by Fellows who are asked to speak to law students on the issue of civility. The guide uses the revised Code of Trial Conduct for its principal focus. The guide sets forth a format for presentation on civility in litigation, including a videotape which was also prepared by the committee depicting instances of incivility which can be discussed with the students.

Michael B. Keating, Chair

## STATE AND PROVINCE COMMITTEES

The primary role of the state committee continues to be the identification of trial lawyers who meet the standards of the College. At the meeting of the Board of Regents in Amelia Island this spring, 132 candidates were considered



## Report of the Immediate Past President

CONTINUED FROM PAGE 16

for membership with the following results:

- 93 — Approved
- 28 — Declined or Declined - File to Be Closed
- 9 — Continued
- 2 — Other (Withdrawn or Tabled)

The percentage of approvals (about 70%) is a little higher than in recent years. This is directly attributable to painstaking work by the state and province committees in the investigation of candidates and in the written submissions in support of nominations.

172 candidates (including those continued from the spring) will be considered by the Board of Regents at its meeting in San Antonio on September 17-21. Those approved, assuming satisfactory completion of a Statement of Qualifications, will be eligible for induction at the Spring Meeting in 1996.

As of September 1, 1995, membership in the College was as follows:

Fellows	3,654
Judicial Fellows	308
Emeritus Fellows	789
Honorary Fellows	31
Total	4,782

120 persons are eligible for induction and most will be inducted at San Antonio.

We are making progress, regrettably slow, in increasing the number of women and minorities in our ranks. The College is committed to finding the outstanding trial lawyers in each state and province and the state and province committees are actively seeking women and minorities who qualify.

In addition to bringing forward candidates for membership in the College, a number of state committees have undertaken projects with the approval of the Board of Regents that make significant contributions to the teaching of advocacy and the administration of justice.

The Massachusetts Fellows adopted the Boston Mediation Plan in which Fellows serve as court appointed mediators. South Carolina has established an ACTL Distinguished Lecture Series in cooperation with the University of South Carolina Law School. Arizona sponsors a moot court competition between the two law schools in the state. Kansas makes a cash award to the outstanding graduate of the trial practice course at Kansas University of Law School and Washburn Law School and Kansas Fellows serve as adjunct teachers of trial practice and serve as judges in the trial practice courses. Oklahoma has established \$1,000 scholarships for deserving law students at the University of Oklahoma College of Law, the University of Tulsa Law School and Oklahoma City University College of Law. The Downstate New York Committee, at the request of Chief Judge Judith Kaye of the New York Court of Appeals, is playing a primary role in the development of a permanent judicial institute for the training and further education of the New York State Court Judges. These are just some of the projects that have been undertaken by the various states and might serve as suggestions to other states that want to be similarly active.

## SPRING AND ANNUAL MEETINGS

We had an outstanding Spring Meeting at Amelia Island. It was a capacity crowd and featured an excellent program. Ambassador Sol M. Linowitz; Lloyd N. Cutler, former counsel to the President; and the Hon. William W. Schwarzer, FACTL, Director of the Federal Judicial Center, were all speakers.

In addition, Justice Ruth Bader Ginsburg of the United States Supreme Court and Justice Claire L'Heureux-Dubé of the Supreme Court of Canada were inducted as Honorary Fellows.

The meetings continue to grow in popularity. We expect over 1,000 Fellows and guests at the Annual Meeting in San Antonio. The program will feature Senator Orrin Hatch, Chairman of the Senate Judiciary Committee; Judge Richard Arnold, Chief Judge of the Eighth Circuit; William Payne, the Chairman of the Olympic Organizing Committee; and Reg Murphy, Executive Vice President of the National Historical Society. We are indebted to President Elect Charles Renfrew for such an outstanding program.

## JUDICIAL EXCHANGES

This September we will have the second part of the Anglo-American Exchange. The first meeting was in September 1994 in London. The judicial delegation was headed by Justice Sandra Day O'Connor and included Justice Anthony Kennedy, Justice Stephen Breyer, Judge Barbara Crabb, and Judge William Schwarzer. Members of the College, in addition to the President, all of whom pay their own expenses, were Past President Robert Clare, Past President Frank Jones, and President Elect Charles Renfrew. We also had the return visit from India of the Indo-American Exchange. Justices Scalia and Ginsburg led the U.S. Delegation for meetings in Washington, D.C.; Williamsburg, Virginia; and New York.

It is a privilege for the College to be able to sponsor these judicial exchanges. They not only provide opportunities for a meaningful exchange of ideas, they bring honor and prestige to the College.

## FINANCES

It became evident as the year began that the increased activity of the College was going to require additional resources. The Executive Committee will recommend to the Board of Regents at the Annual Meeting in San Antonio that the dues be increased to \$500 per year. This is the first increase in dues since 1990 and should be sufficient to see us to the end of the decade.

At the meeting in Scottsdale in the spring of 1994, the Board of Regents authorized the creation of a new charitable foundation. The leadership of the College is committed to funding the Foundation at a level that will permit it to provide meaningful support for special projects and activities that are within the purpose of the foundation and the College. You will learn more

about the Foundation in the months to come and will be given the opportunity to make contributions to the Foundation if you so choose.


## THE PRESIDENTIAL YEAR

The good part about this job is that it lasts only a year. The bad part about this job is that it lasts only a year. We have been privileged to represent the College at about 45 different meetings. The enthusiasm for the College is hard to describe. It is almost palpable. We had many wonderful regional meetings and any number of outstanding state and province meetings. The Logistics for seeing that I had clean socks or a black tie, where that was called for on the various trips, fell on Frances's shoulders where it has been for these past many years, but she has been far more than that. She has been a First Lady for the College in every sense of the work, and I am enormously proud of the way she has represented the College to her constituency.

This year would have been impossible without my secretary, Julie Wilson. She is the other Mrs. Wilson in my life. Julie makes friends over the phone easier than most people make them in person and has been an integral part of the office of President. One of her responsibilities has been getting us where we were supposed to be and on time. Not once did we wind up in Sheboygan when we were supposed to be in Chicago — no mean feat.

The College is blessed with an outstanding staff. Their dedication and expertise is self-evident to those of you who have attended the Spring and Annual Meetings. Our Executive Director, Bob Young, provides imagination as well as oversight to the entire operation of the College. The other staff members, Suzanne Tavares, Natalie DeWitt, Susan Emens, Mavis Bruce, Deborah La Pointe and Mary Kate Lowe tend to a thousand details that make the College run efficiently and smoothly throughout the year. It should be evident from this report that the activities of the College are increasingly significantly. In order to provide adequate staff and to allow our Executive Director to focus on overall planning, we have hired an Assistant Director, Dennis Maggi. Mr. Maggi was Director of Administration of the California Society of Health-System Pharmacists. He brings impressive credentials and will join the College staff in the middle of October.

This year has also seen the automation of the College office. It was decided that we should get out of the carbon paper and typewriter era and into the modern world. Desktop computers with appropriate programs were installed and the staff has been trained in their use.

Finally, appreciation goes to the Executive Committee, Past Presidents, and the Board of Regents for their continuous support and for their vigilance in keeping the College on course. 

Lively M. Wilson  
Immediate Past President

# ACTL CALENDAR OF EVENTS

## STATE MEETINGS 1996

**January 19**

**MASSACHUSETTS Fellows**  
Four Seasons Hotel  
Boston, MA

**January 26**

**Upstate and Downstate**  
**NEW YORK Fellows Breakfast**  
Rainbow Room  
New York, NY

**January 26-27**

**VIRGINIA Fellows Dinner/Brunch**  
The Jefferson Hotel/The Commonwealth Club  
Richmond, VA

**February 29-March 3**

**NORTH CAROLINA and**  
**SOUTH CAROLINA Fellows Meeting**  
Cloister  
Sea Island, GA

**April 19**

**SOUTHERN CALIFORNIA**  
**Fellows Dinner**  
The California Club  
Los Angeles, CA

**April 25-27**

**ALABAMA Fellows Meeting**  
Grand Hotel  
Pt. Clear, AL

## REGIONAL MEETINGS 1996

**January 17**

**QUEBEC Regional Dinner**  
TBD

**MAY 2-5**

**TEXAS, MISSISSIPPI, LOUISIANA AND**  
**ARKANSAS Regional Meeting**  
Harrahs Hotel  
Vicksburg, MS

**May 24-27**

**TRI-STATE Regional Meeting**  
The Breakers  
Palm Beach, FL

**June 7-9**

**NORTHEAST Regional Meeting**  
Chatham Bars Inn  
Cape Cod, MA

**1997**

**July 28-30**

**NORTHWEST Regional Meeting**  
Skamania, Lodge  
Stevendon, WA

**April 24-27**

**SOUTHWEST Regional Meeting**  
Spanish Bay  
Pebble Beach, CA

**1998**

**July 19-21**

**NORTHWEST Regional Meeting**  
Salishan Lodge  
Gleneden Beach, OR

**1999**

**August 1-5**

**NORTHWEST Regional Meeting**  
Coeur d'Alene Resort  
Coeur d'Alene, ID

## NATIONAL MEETINGS 1996

**March 7-10**

**ACTL SPRING Meeting**  
Westin La Paloma  
Tucson, AZ

**October 17-20**

**ACTL ANNUAL Meeting**  
Hyatt Regency  
San Diego, CA

**1997**

**March 20-23**

**ACTL SPRING Meeting**  
Boca Raton Resort & Club  
Boca Raton, FL

**September 11-14**

**ACTL ANNUAL Meeting**  
Westin Hotel  
Seattle, WA

**IF YOU WOULD LIKE MORE  
INFORMATION ABOUT ANY OF  
THESE MEETINGS PLEASE CALL  
THE ACTL NATIONAL OFFICE.**

(714) 727-3194



**1998**

**March 19-22**

**ACTL SPRING Meeting**  
Marriott Desert Springs  
Palm Desert, CA

**ACTL ANNUAL MEETING**

London  
TBD

**1999**

**March 11-14**

**ACTL SPRING Meeting**  
The Ritz-Carlton  
Naples, FL

**October 28-31**

**ACTL ANNUAL MEETING**  
Philadelphia Marriott  
Philadelphia, PA

**2000**

**March 16-19**

**ACTL SPRING Meeting**  
The Ritz-Carlton  
Kapalua, Maui, Hawaii

**October 26-29**

**ACTL ANNUAL Meeting**  
JW Marriott  
Washington, DC

## OTHER MEETINGS 1996

**January 12-13**

**EMIL GUMPERT Award Committee Meeting**  
Windsor Court Hotel  
New Orleans, LA

**January 25**

**ANNUAL NATIONAL MOOT COURT  
COMPETITION**  
The House of the Association of the Bar of the  
City of New York  
New York, NY

**March 3-6**

**BOARD OF REGENTS Meeting**  
Westin La Paloma  
Tucson, AZ

**March 20-24**

**NATIONAL TRIAL COMPETITION**  
The Four Seasons Hotel  
Houston, TX

**October 13-16**

**BOARD OF REGENTS Meeting**  
The Ritz-Carlton  
Laguna Niguel, CA

**October 31-November 3**

**EASTERN CHAIRS Workshop**  
The Grove Park Inn Resort  
Asaheville, NC

**November 21-24**

**WESTERN CHAIRS Workshop**  
Meadowood  
St. Helena (Napa Valley), CA

**1997**

**March 16-20**

**BOARD OF REGENTS Meeting**  
Boca Raton Resort & Club  
Boca Raton, FL

**September 7-11**

**BOARD OF REGENTS Meeting**  
The Westin Hotel  
Seattle, WA

**1998**

**March 15-19**

**BOARD OF REGENTS Meeting**  
LaQuinta Resort and Club  
La Quinta, CA

**1999**

**March 7-11**

**BOARD OF REGENTS Meeting**  
The Ritz-Carlton  
Naples, FL

**October 24-28**

**BOARD OF REGENTS Meeting**  
Philadelphia Marriott  
Philadelphia, PA

**2000**

**March 12-16**

**BOARD OF REGENTS Meeting**  
The Ritz-Carlton  
Kapalua, Maui, Hawaii

**October 22-26**

**BOARD OF REGENTS Meeting**  
JW Marriott  
Washington, DC