

American College of Trial Lawyers

THE BULLETIN

Number 36

Spring 2000

Maui

50th Spring Meeting



Wearing a bright green tie, President Michael E. Mone welcomed Fellows, spouses and friends to Paradise and a Happy St. Patrick's Day. The 50th Spring Meeting of the College was held at The Ritz-Carlton in Kapalua, Maui, Hawaii.

The first speaker was **The Honorable Margaret H. Marshall**, Chief Justice of the Supreme Judicial Court of Massachusetts. She is not only the first woman Chief Justice of Massachusetts but also the first immigrant Chief Justice to sit on this oldest court of continuous jurisdiction in the United States.

Chief Justice Marshall was born, raised and received her college training in South Africa. In

1966 she was president of the National Union of South African Students, a body of South African student leaders who opposed Apartheid.

"In the spring of 1966 she invited Robert Kennedy and sat on the stage when he gave his famous Day of Affirmation speech," President Mone said as he introduced her. "During that speech Robert Kennedy said, 'The personal acts of courage send out ripples that join with other acts of courage to produce a powerful force.' Justice Marshall's act of courage in opposing Apartheid and in inviting Robert Kennedy to speak, ultimately brought her to the United States," he said.

In the United States she ob-

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"Concert by the Sea" on Friday, March 17, 2000 in Maui. Concert by the Haleakala Chamber Orchestra featuring guest performer pianist, Virginia Eskin.

Fellows Urged To Respond: **ACTL "Innovations" in Jury Trials Poll**

The College Committee on Special Problems in the Administration of Justice is currently considering the proliferation throughout the United States of so-called "innovations" in jury trials. From

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American College of Trial Lawyers
THE BULLETIN

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(1895-1982)

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state to state, from jurisdiction to jurisdiction within a given state and from court to court within a given local jurisdiction, courtrooms are being used as laboratories in which ideas for the improvement of the trial by jury and the quality of the experience of jurors are being tested. Some are radical. Some are not.

Examples of the type of activity being classified as "innovative" include discretionary interim summations by counsel, discretionary interim jury instructions by the court, use of jury notebooks, juror note taking and appropriate limitations. Other examples are juror questioning of witnesses and juror discussion of the evidence during the trial together with appropriate limitations on those practices, and instructions of law to the jury before closing argument. Some of these practices, which are considered "innovative" in one courtroom, could well be the standard of practice in your jurisdiction.

Various organizations have been following this phenomenon over the

past several years. These include academics and court administrators and their national organizations. The Board of Regents believes that the experience, observations and opinions of the Fellows of this College would shed considerable light on the subject. By definition our Fellowship consists of trial lawyers at the top of their profession, who practice in essentially all areas of litigation and who are present and have knowledge of the courts in all of these "laboratories" across the United States.

Because of this, the Board has authorized this committee to poll the Fellows to determine their observations and opinions based upon their actual experience with these innovations. In the near future the committee proposes to contact you in this regard. We urge you to take the time to respond fully and completely to our inquiry. It is important that the knowledge and experience of our Fellows play a part in determining, *inter alia*, which of these innovations should survive and which should not.

James W. Morris, III
Regent



General Sessions were well attended during the Maui Meeting.

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tained a masters degree at Harvard and graduated from the Yale Law School in 1976. She became an intellectual property litigator in Boston and served as president of the Boston Bar Association, the oldest bar association in the country. Prior to her appointment to the Supreme Judicial Court in 1996, she was General Counsel to Harvard University.

Chief Justice Marshall noted that



The Honorable Margaret H. Marshall, Chief Justice, Supreme Judicial Court of Massachusetts, speaks to a capacity crowd at Friday's General Session.

when she grew up in South Africa, "To publish a poem critical of white supremacy was a violation of the Terrorism Act. People were silenced, isolated, imprisoned indefinitely without recourse to the courts."

When she was a university student there in the 1960s many of her teachers and friends were imprisoned, tortured or forced to leave the country because of the views they held and the ideas they expressed.

She spoke of an independent judi-

ciary. "My experiences in South Africa made me value profoundly the sacred place of law in American society," she said. "You who are born here may take for granted the existence of an impartial judiciary, the idea of equal justice under law. But as an immigrant who came here at the age of 24 I can never take them for granted, because for me they are the essence of what it means to be an American."

The Supreme Judicial Court of Massachusetts operates under the oldest still functioning written constitution anywhere. Adopted in 1780, the Massachusetts constitution was the first to embrace the radical concept of an independent judiciary.

Justice Marshall spoke of John Adams' vision of a new form of government once the Revolution had been won in the American colonies, an elaborate system of separated branches of government. He recognized, "the tendency of the majority sometimes acting through their elected representatives to trample upon a minority, especially a despised or distrusted minority," she said.

He envisioned first, a governor elected separately by the voters and second, a bicameral legislative department of two branches elected annually. "The genius of the Adams model, a third branch of government comprised of judges selected by the governor with consent of the council."

"The Adams solution was an independent judicial branch comprised of judges as free, impartial and independent as the lot of humanity will admit."

"What Adams essentially established in Massachusetts for the first time anywhere was an independent judicial branch of government with status equal to that of the executive and the legislative branches."

That revolutionary idea is on the march again, she said. "Our constitutional model – the United States and Massachusetts constitutional model, the enforcement of fundamental rights by judges, is being embraced by peoples of other nations across the globe. The new South Africa has a constitution with a bill of rights enforced by a constitutional court that has already held a number of actions by the government of President Nelson Mandela and his successor invalid under the constitution."

She mentioned Canada and high courts of other countries, Hungary, India, Israel and Australia. "Indeed, our revolution is coming to Britain," she said.

Eugene Meehan of Ottawa, President of the Canadian Bar Association, was born and grew up in a small town in the lowlands of Scotland. He received his L.L.B. from the University of Edinburgh, came to Canada on a Commonwealth scholarship and never returned home. He took his L.L.M. from the University of McGill in 1976, another L.L.B. from the University of Ottawa in 1978 and his doctorate in law from McGill in 1984. He was a professor at the University of Alberta for some eight years and then at the University of Ottawa for four years. He then served two years as the executive legal officer of the Supreme Court of Canada. He is now a litigation lawyer in Ottawa where he special-

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izes in assisting other lawyers who are taking cases to the Supreme Court of Canada. He is the author or co-author of nine books on various aspects of Canadian law.

Past President E. Osborne Ayscue, Jr., in introducing him, said, "He is a Scot through and through. He once went seal hunting north of the Arctic Circle in his kilt. On Sunday he plans to run in the Maui Marathon in his kilt."

The Canadian Bar Association is a voluntary association representing 72 percent of the 56,000 practicing lawyers in Canada. Mr. Meehan spoke of lawyers being under attack personally, economically, legislatively and socially.

He outlined three main threats: legal aid, independent paralegals and the World Trade Organization and its plans to regulate professions.

He spoke of under-funding for state provided legal aid lawyers, both in Canada and the United States. "The right funding for the right cases. That's the right of the public, that's the right for us too," he said.

"In Canada paralegals are unregulated, unlicensed and unsupervised," he said. "And, in addition, they are mostly untrained and uninsured. And the public is unprotected. And they are taking our jobs."

"What the heck does the World Trade Organization have to do with me?" he asked. But he also noted that both the United States and Canada are members of the WTO and that the organization is looking at the qualifications of professionals such as, "accountants, doctors, engineers and they will be talking about lawyers."

He also spoke of pride in the profession and said, "People cannot be proud of lawyers if we are not proud of ourselves."

Past President John C. Elam introduced **The Honorable Daniel K. Inouye**, United States Senator for Hawaii, by focusing on his military accomplishments. At age 18 Senator Inouye enlisted in the U.S. Army and saw much combat in Europe. During the Rome-Arno Campaign, in a two-week effort to rescue a Texas Battalion that was surrounded by German forces, he won a Bronze Star and a battlefield commission as a lieutenant.

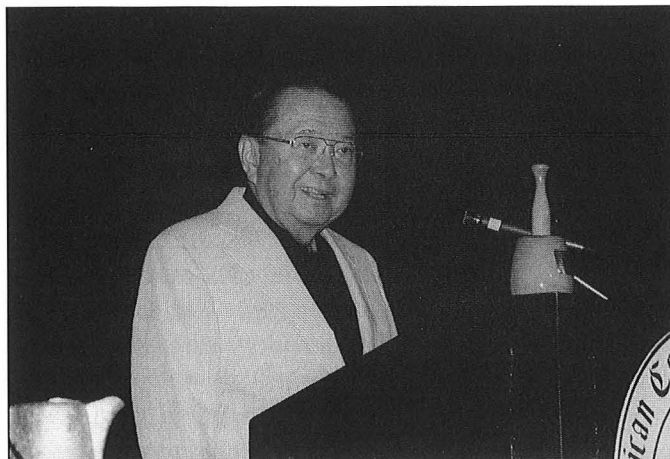
During the closing months of the

having lost his right arm, attacking the machine gun, and was struck again with a bullet and knocked backward."

Senator Inouye spent 20 months in hospitals and received the nation's second highest award for military valor, the Distinguished Service Cross.

He attended George Washington University School of Law on the G.I. Bill of Rights and served as a deputy public prosecutor in Honolulu. When Hawaii became a state in 1959 Senator Inouye won election as the first Representative in the House of Representatives from Hawaii.

He was the first American of Japanese descent to serve in either House of Congress. Mr. Elam quoted a member of Congress who was there at the time who said, "The hush deepened in the House as the young Congressman raised not his right arm, but his left, and repeated the oath of office. All remembered he had lost his right hand and arm in combat in World War II.



The Honorable Daniel K. Inouye, United States Senator for Hawaii, Honolulu, Hawaii, was the first speaker at Saturday's General Session.

war he was wounded in the abdomen while attacking a machine gun nest. "But he continued to go forward," Mr. Elam said. When his platoon was pinned down, "he went alone and tossed two hand grenades with devastating effect. And then his right arm was shattered by a German rifle grenade at close range. He threw the last grenade with his left hand after

And as that Congressman said, at that moment a ton of prejudice regarding Japanese-Americans slipped quietly to the floor of the House of Representatives."

Senator Inouye said that he loved the profession of law and that, "every chance I've had in the Congress of

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the United States I've done my best to stand up for it." He recalled a few years ago when the Commerce Committee was debating the matter of setting a cap – \$250,000 for the loss of a leg or arm, \$300,000 for the loss of an eye. He noticed that everyone was speaking in favor of the suggestion, so "I finally thought I should say a few words. And I said, very simply, 'I was wounded in 1945 and since then my government has been very generous. It has given me a pension. If I could get my arm back I'll return all of that'." He added that he hates demagoguery but said, "I felt demagoguery was justified in this case. And I'm happy to tell you that bill died right there."

He said he supports lawyers and lawyer organizations because, "You are doing something that we in the Congress have been trying to achieve for a long time. You should be proud of what you are doing because you provide a level playing field, as we politicians call it. But do the folks know about it? Do they know what you are doing? All they know is what they have read in the papers and seen on '20/20'."

"I'd like to most respectfully suggest to you, as I have to some of my friends who are in active practice, that this campaign of ridicule and vilification against lawyers must be countered and answered. I try my best in the Congress to do that, but I am just one."

He suggested that all lawyers get together and plan a massive public relations program. "Tell America what you are doing. Tell America that very few, very-very few are ambulance chasers and blood-suckers. Tell them that without your services the poor and the indigent may not be

able to receive competent legal service and advice. Tell America that you are not all ambulance chasers."

"I am a proud bearer of my law degree. It is one of the few things that I put on my wall because I earned it. And so I am prepared to join you in restoring the luster of that diploma of mine."

Past President Gene W. Lafitte read the very short resume provided by **The Honorable William R. Wilson, Jr. FACTL**, United States District Court Judge for the Eastern District of Arkansas. It included, "1965 to October 1, 1993, Mere Street Lawyer, save and except three years, five months and 22 days and five hours in the United States Navy." Another entry was: "Wye Mountain Branch Manager of the internationally famous Rasputin Mule Farm, headquartered in Walden, Scott County, Arkansas."

Judge Wilson is a graduate of Vanderbilt Law School, former president of the Arkansas State Bar Association and a Fellow of the College. Mr. Lafitte said, "At the time of his appointment to the federal bench in 1993 he was listed in *The Best Lawyers in America* in five categories – personal injury, business litigation, criminal defense, domestic relations and Constitutional law. I am also told that at that time he was the only one who was listed in that many categories in that publication."

Judge Wilson told humorous stories about people he had known, including an incident when two prominent Arkansas lawyers were trying a case against one another. "Both gave closing arguments that were 'stem-winders'," according to Judge Wilson, who was present at the time.

"The jury went out and deliberated about ten minutes and they sent a note out to the judge that they wanted to hear more closing arguments. I made my mind up right then, if that ever happened to me – it didn't – but if it ever happened to me I was retiring because I don't know what better honor you could ever get."

Stating that, "As far as I can find out I'm the only District Judge in America that got a raise when I was appointed to the bench," he went on to say, "I'll tell you what. Being invited to speak in Hawaii to this great gathering of trial lawyers and their guests, I just can't work up any humbleness. I'm shot full of sinful pride, to be honest with you."

Judge Wilson also said in his years on the bench he has seen only one truly incompetent performance by a lawyer, and that lawyer won.

Making sense of the land law of modern Hawaii by understanding the unique past of Hawaii was the theme of a slide presentation produced by the Hawaii Judicial History Center entitled, "The Law of the Land."

Early Hawaiian land use was a system of use rights, not property rights, the presentation explained. Hawaiians had developed a right to use, but not to own, the land. It was land in common. But foreigners holding lands were anxious to have permanent titles. In 1843 a British warship, in response to a dispute over a land lease, took over the government of Hawaii for five months.

By 1846 the change over from shared rights to property rights had begun with the formation of a land commission. By 1848 the king signed an agreement dividing the land into

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The President's Report

"Appoint a committee."

The battle-cry of organizational leaders everywhere, this phrase has become the instinctive presidential response to any challenge more complicated than a motion to adjourn. In many cases, the creation of the committee is no more than a stalling technique. Once the committee is appointed, its primary value to the president is its ability to refrain from reporting on its work until its creator has had a chance to join the ranks of the organization's *past* presidents.

In the American College of Trial Lawyers' experience, however, committees do not fit this model; instead, our committees have members who examine, critique, and improve the areas of law that affect the College and the Bar at large. As we Fellows – committee members and non-members alike – are aware, our work to carry out the College's mission to maintain and improve the standard of trial practice, the administration of justice, and the ethics of the profession is dependent upon the good work of our committees.

At this point – midway through my term as President of the College – I would like to report to you on the recent activity of three of our committees in order to highlight their work, to thank them for their accomplishments and to encourage more Fellows to participate through the committees in the work of the College.

Federal Civil Procedure Committee

Since its creation, the Federal Civil Procedure Committee – presently led by Salt Lake City's Bob Campbell – has been one of the most important contributors to the ongoing monitoring and amendment of the Federal Rules of Civil Procedure. Over the past two decades, the committee has been particularly influential in its efforts to mend the scope of civil discovery under Federal Rule 26(b)(1). In 1978, the Board of Regents adopted an ABA Special Committee recommendation that discovery be limited to "the claims or defenses" raised by litigants, rather than allowing the parties immediate access to all information relating to the "subject matter involved in the pending action." Since that time, it has been the position of the committee, and of the College as a whole, that the elimination of "subject matter" discovery would simultaneously serve the twin purposes motivating the enactment of Rule 26: the prevention of discovery abuses and the preservation of litigants' opportunities to obtain necessary and complete pretrial discovery.

During the interval between the Board's adoption of the ABA's recommendation and the present, our Civil Procedure Committee has consistently pressed the Advisory Committee of the Judicial Conference to adopt our position on the issue of subject matter discovery. In the process, the committee has positioned itself as a unique liaison to the Advisory Committee; at various times,



Michael E. Mone
President

the Advisory Committee's membership has included Fellows of the College.

As the events of the past few years demonstrate, the committee's work was worth the wait. The committee's most recent inroad on the discovery issue began in 1996, with its resubmission to the Advisory Committee of the Judicial Conference of an amendment narrowing the scope of discovery by eliminating subject matter discovery.

The next major step took place in 1998, when we submitted a monograph – prepared by the committee with the full backing of the Board of Regents – advocating the same goal. After vigorous debate concerning the best means of regulating the scope of discovery, both the Advisory and Standing Committees of the Judicial Conference recommended adoption of an amendment which included the substance of the College's recommendation. As approved by the Advisory and Standing Committees, the amendment included a provision not included in the College proposal, granting the courts discretion to allow broader discovery "for good cause shown." In September of 1999

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the full Judicial Conference adopted the proposal and sent it to the Supreme Court of the United States. To the applause of the Rules Committee, the College – and much of the national trial bar – the Supreme Court adopted the proposal.

The amendment approved by the Supreme Court, as well as several other amendments, will be before the Congress on May 1, 2000. Pursuant to the Rules Enabling Act, Congress can only reject, modify, or change the amended rules by passing specific legislation. Assuming that Congress does not follow this route within six months, by next December the amendment will become part of the rules of Federal Procedure.

The work of the Civil Procedure Committee is a powerful example of how the College contributes to the maintenance and improvement of trial practice in the United States. It is also proof of the strength of the College, which – because it draws membership from both the plaintiffs' and defense bar – speaks with great credibility. The Supreme Court's decision to eliminate subject matter discovery is a victory for the College and a testimony to over twenty years of dedicated work by the Rules Committee and its members.

Emil Gumpert Committee

The Emil Gumpert Award was established by the Regents in 1975 to honor the Chancellor Founder of the College and to recognize excellence in the teaching of trial advocacy by an American or Canadian law school. Each year the Gumpert Award is conferred on a law school determined by the committee to have an outstanding trial advocacy program. The honor is symbolized by a plaque and

carries with it a \$50,000 monetary award to the winning school.

The Gumpert Committee's review of Gumpert Award candidates is exhaustive. The committee, presently chaired by Ray Brown of Mississippi, considers between five and six applications each year from law schools seeking the Gumpert recognition. When the applications have been received, each one is assigned to a Gumpert Committee member. Each participating committee member then selects two Fellows of the College – who are neither graduates of the applicant law school nor members of

"The Supreme Court's decision to eliminate subject matter discovery is a victory for the College."

the Gumpert Committee – to conduct an independent review of the law school's application and to make an on-site visit to the school. Once familiar with the application, the visiting Fellows inspect the school's facilities, monitor classes in trial advocacy and evidence, and often attend a moot court or mock trial competition at the school. Each of the visiting Fellows then makes a separate report to the committee member and the committee member presents the application at the Gumpert Committee meeting, usually held in mid-January.

When all evaluations and presentations are complete, the Gumpert Committee hears the recommendations of each of the Gumpert Committee members concerning the school to which he or she has been assigned, then dedicates a full day to consideration and examination of the

applications and the reports of the site visits. After what I am told is often vigorous debate, the Gumpert Committee nominates to the Board of Regents a single winner of the Gumpert Award. After action by the Board of Regents, the award is customarily presented by the President of the College at convocation of the law school.

The Gumpert Award is universally recognized as a significant honor for a school's program and recognition of the school's dedication to fostering the professional development of the next generation of trial lawyers. Continuation of our system of justice depends upon the strength of the trial bar and the ability of its individual members. The individual skills underpinning that strength are learned over a lifetime, beginning in the law schools. The Gumpert Award encourages law schools to make the teaching of trial practice an important and vital part of the curriculum, and provides those schools with a financial springboard to assist them in doing so.

National Trial Competition Committee

For the past 25 years, the Young Lawyers of Texas and the American College of Trial Lawyers have co-sponsored the National Trial Competition, held in Texas early each April. Over the course of three days, teams fielded by law schools from each region of the country test their courtroom skills against one another as they try a case based on a hypothetical fact pattern. Whether the competitors are more daunted by the facts or the factfinders, however, is open to question. Their jurors and – with the exception of the final

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President's Report

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round – their judges are Fellows from the ranks of the National Trial Competition Committee, chaired this year by Mike Williams of Denver.

At the national finals the president of the College sits as the presiding judge. It has been rumored that with the jury box stacked with evidence experts, the president is often the most nervous person in the room. The competition is an exciting and educational experience for all competitors; it is inspirational to competitors, participating Fellows, and onlookers alike.

There are few opportunities for any law student or attorney to look over at a jury box filled with a sampling of the best trial lawyers in the United States, let alone to do so with the knowledge that each of them has given three days of his or her very valuable time to be there in order to promote excellence in the next generation of trial lawyers.

My opportunity to participate in judging the final round of this year's competition was a very personally-moving experience. The final round was on late Saturday afternoon. Sitting as the presiding judge, I could look out through a window behind the jury box into Dealy Plaza and onto the place where, on November 22, 1963, the history of this country changed. Watching the American flag flying in the middle of the plaza and listening to the students competitors' zealous and competent argument, I felt confident in the knowledge that our Constitution, our courts, and our system of an independent trial bar will be in good hands in the next generation.

In addition to its participation in

the National Trial Competition, each year the College co-sponsors National Mock Trial and Moot Court competitions in both the United States and Canada. This year the National Moot Court Competition in New York was won by the University of Montana, a Gumpert Award winner in 1999. The Canadian National Trial Competition's Sopinka Cup, named for College Fellow and former Justice of the Supreme Court of Canada, John Sopinka, was awarded to Dalhousie University Law School, a 1998 Gumpert Award winner. Completing the trifecta, the 1998 winner of the Na-

"I felt confident in the knowledge that our Constitution, our courts, and our system of an independent trial bar will be in good hands in the next generation."

tional Trial Competition in Dallas was the University of Notre Dame, winner of the 1995 Gumpert Award. The 1998 finals were notable for pitting two Notre Dame teams against one another for the title. The achievement of these student teams demonstrates the wisdom of the selection process by the Gumpert Committee and of the College's role in encouraging excellence in the teaching of trial practice in our law schools. In our 50th anniversary year, the Gumpert Committee has selected Wake Forest Law School as the winner in the year 2000. And if recent is a model, we look forward to seeing Wake Forest do very well in the trial competitions next year.

The significance of this list of accomplishments is not in its ability to illustrate the many positive effects of the substantial time and resources that each of our committee members has devoted to furthering the College's promotion of excellence in the trial bar of the United States and Canada, but in its ability to show the impact made by just a few of our Fellows.

The results of the efforts I have touched on here represents the work of just three of our committees, and of a dedicated handful of our Fellows. As remarkable as the efforts to date have been, we need more of them. Committee work is vitally important; I encourage all Fellows to participate in it and to view your participation as a necessary component of your Fellowship in the College. Please let the president-elect of the College, Earl Silbert, know about your interest in serving on a committee. Your willingness to take the time and effort to further the important work of our committees is your contribution to the excellence of the existing trial bar and to the preservation of our standards of practice in the future. □

ACTL Fellow Appointed To The Bench

The College is pleased to announce the following judicial appointment of a Fellow.

The Honorable David N. Hurd of Utica, New York, was recently elevated to District Judge of the Northern District of New York. □

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parcels. In that agreement the king received nearly one-fourth of the land mass of Hawaii, the government received over a third, and a total of 245 chiefs together received over a third. The Hawaiian commoner received less than one percent of Hawaii. "With the institution of property ownership the individuals who understood ownership quickly acquired it," the presentation said.

However, through a series of judicial decisions stretching from the late 1960s the court recognized the validity of both native Hawaiian and Anglo-American tenets of jurisprudence. "At points of unresolvable conflicts and contradiction between the two cultures, the court would draw upon precepts and traditions of the Hawaiian culture," the presentation announced.

By law today the ancient system takes precedence over English common law. In recent years native rights to access traditional homesteads have been strengthened. Tenant rights have been strengthened. Beaches, up to the vegetation line, are held in common by the public, and new land formed by volcanic eruption is publicly owned. Surface water and ground water are publicly owned.

Past President Edward Brodsky introduced David L. Fairbanks, FACL, of Honolulu. Mr. Fairbanks graduated from Stanford University with a degree in history and literature. He gained his law degree from the University of Santa Clara School of Law. He was an instructor in modern European history in Hawaii, president of the Hawaiian Bar Association, a hearing officer for the Dis-

ciplinary Counsel for the Hawaii Supreme Court and a trustee for the Client Security Trust Fund. He is chairman of the Judicial Selection Committee of the State of Hawaii and a member of the merit selection panel for the selection of federal judges in Hawaii.

Mr. Fairbanks assumed the role of a Hawaiian of Japanese descent and presented a unique story of Hawaii from the perspective of those descendants. "History begin around early 1980s when Japanese buy entire Hawaiian islands – cash," he said. "Before that there is nothing."

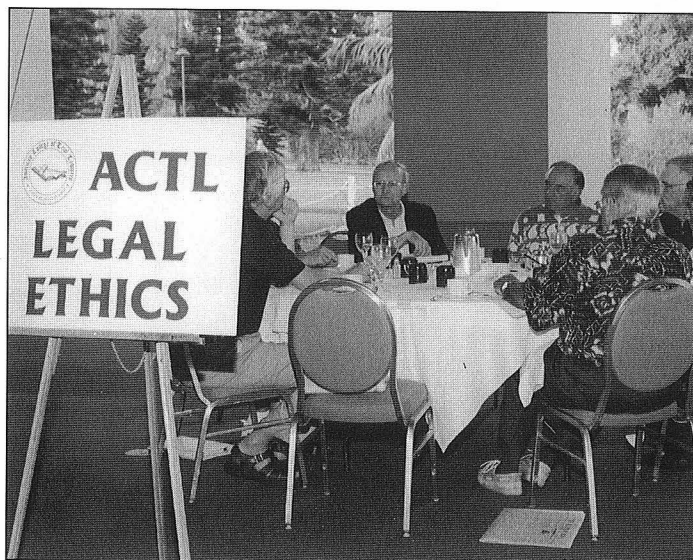
From this perspective he explained the geology, agriculture and culture of Hawaii.

Mr. Fairbanks talked, with a heavy Japanese accent, of the local trees, surfing, shopping, hunting. "You play golfu, tennis, shopsu, take boatu to Lanai, and you can do nothing – only cost 400 dollars a day."

"Dis island, rike all Hawaiian is-

land have all kind different people. Everybody Hawaii come from someplace else. Even Hawaiian people, but come more early than anybody else. Mosu people say firsu people on Maui-Molokai come from Markasu Island in South Spacific around 600 A.D., but maybe not true. Maybe more early come. Recently discover pollen from frower in Lahania. They make carbon tesu. Dey think maybe come from year zero. So pollen come from what once was a large pond that had one acre island in the middle, was a home of Kamamai the Third. Now scholar have to re-think when first people come to Hawaii."

He told of the trade era of Sandlewood shipped to China, whalers wintering over at Lahania and cattle and sheep ranching. These trades brought people – English, Spanish speaking cowboys from California and Portuguese herders. In this century field bosses and engineers from Germany and Scotland, field laborers from China, more Portuguese, then the Japanese. □



A look at one of the many committee breakfast meetings held at the Ritz-Carlton, Maui.

New Fellows Inducted During 50th Spring Meeting Kapalua, Maui, Hawaii

The College welcomes the following Fellows who were inducted into Fellowship during the 2000 Spring Meeting in Hawaii.

ARKANSAS

Ed Lowther
Little Rock

NORTHERN CALIFORNIA

Daniel R. Baradat
Fresno

James M. Goodman
San Francisco

Stephen Jones
San Francisco

SOUTHERN CALIFORNIA

Ernest J. Getto
Los Angeles

Craig R. McClellan
San Diego

Carol A. Salmacia
Santa Ana

COLORADO

Dennis W. Hartley
Colorado Springs

CONNECTICUT

William H. Champlin III
Hartford



The Induction Ceremony with the Induction Charge given by Past President Gael Mahony

Charles A. Deluca
Stamford

FLORIDA

John M. Brumbaugh
Miami

Jerry L. Newman
Tampa

Stephen F. Rossman
Miami

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Upper Marlboro

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Mark D. Gately
Baltimore

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Thomas W. Cranmer
Bloomfield Hills

Rodger D. Young
Southfield

MINNESOTA

Steve Gaskins
Minneapolis

MISSOURI

J. Kent Lowry
Jefferson City

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St. Louis

MONTANA

Gary L. Graham
Missoula

Karen S. Townsend
Missoula

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Thomas F. Pitaro
Las Vegas

NEW JERSEY

Paul R. D'Amato
Linwood

Alan E. Kraus
Morristown

UPSTATE NEW YORK

Paul B. Zuydhoek
Buffalo

OHIO

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Harry D. Cornett, Jr.
Cleveland

OREGON

Keith E. Tichenor
Portland

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Malcolm L. McCune
Nashville

Clinton H. Swafford
Winchester

TEXAS

Charles (Chip) Babcock
Dallas

Sam W. Cruse, Jr.
Houston

UTAH

Janet Hugie Smith
Salt Lake City

VIRGINIA

William E. Artz
Arlington

Bruce D. Rasmussen
Charlottesville

WASHINGTON

David D. Swartling
Seattle

ATLANTIC PROVINCES

George W. MacDonald,
Q.C.
Halifax

ONTARIO

Gavin MacKenzie
Toronto

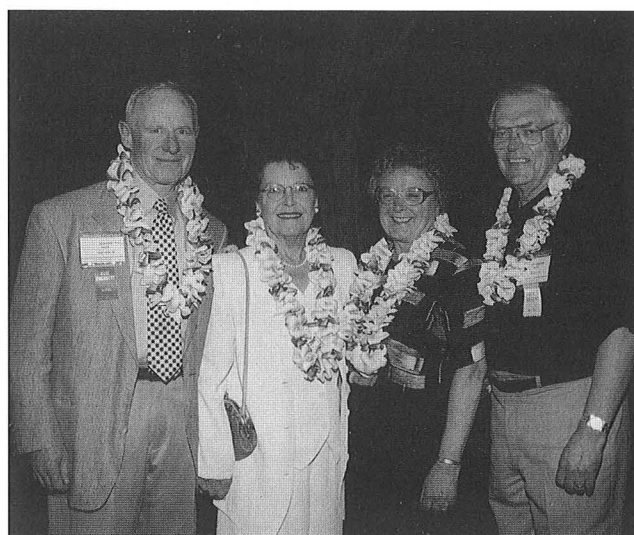
Jerome R. Morse
Toronto



From l to r, Regent Tom Slutes, Hawaii State Chair James Kawashima, Hawaii Governor Benjamin J. Cayetano, and President Michael E. Mone gather before the Board of Regents dinner at Washington Place. The Hawaii Fellows made a \$1,000 donation to Governor Cayetano's Washington Place Foundation for restoration of Washington Place, Hawaii's historic Governor's Mansion. The College also made a matching donation of \$1,000.

Board of Regents Meeting, Honolulu

Past President Robert Fiske and his wife, Janet and Former Regent Jerry Greenan and his wife, Helen.



ACTL Calendar of Events

2000

June 2

Minnesota Fellows Golf Outing and Dinner
Minikahda Club
Minneapolis, MN

June 2-4

Arizona Fellows Meeting
Hacienda Del Sol Resort
Tucson, AZ

June 3

North Dakota/South Dakota Fellows Meeting and Dinner
Bistro Restaurant
Bismarck, ND

June 9

Georgia Fellows Black-Tie Dinner
Atlanta, GA

June 16

Kentucky Fellows Annual Luncheon
Metropolitan Club
Covington, KY

June 16-18

Northeastern Regional Meeting
Cranwell Resort and Golf Club
Lenox, MA

June 23

Florida Fellows Annual Black-Tie Dinner
Boca Raton Hotel & Resort
Boca Raton, FL

June 23

Texas Fellows Annual Luncheon
Westin Riverwalk
San Antonio, TX

July 23-25

Northwest Regional Meeting
Chateau Whistler Resort
Whistler, BC, Canada

August 11-13

Iowa Fellows Meeting
TBD
Cedar Rapids, IA

August 20-23

Canadian Bar Association Meeting
Convention Center
Halifax, NS, Canada

September 16

Alaska Fellows Annual Dinner
Anchorage, AK

September 17-23

Anglo-American Exchange
New York, NY and
Washington, DC

September 21

Missouri Fellows Meeting
St. Louis, MO

September 22

Nebraska Fellows Dinner
Omaha Country Club
Omaha, NE

October 6-7

Indiana Fellows Annual Fall Outing
Indianapolis, IN

October 14-15

Kansas Fellows Meeting
The Ritz Carlton
Kansas City, MO

October 22-25

Board of Regents Meeting
JW Marriott
Washington, DC

October 25-29

ACTL Annual Meeting
JW Marriott
Washington, DC

December 8

Washington Fellows
Christmas Dinner
Broadmoor Golf Club
Seattle, WA

2001

March 25-28

Board of Regents Meeting
Boca Raton Resort & Club
Boca Raton, FL

March 29-April 2

ACTL Spring Meeting
Boca Raton Resort & Club
Boca Raton, FL

May 3-6

Tenth Circuit Regional Meeting
Ritz Carlton
Kansas City, MO

July 29-31

Northwest Regional Meeting
Grouse Mountain Lodge
Whitefish, MT

October 14-17

Board of Regents
The Ritz Carlton
New Orleans, LA

October 18-21

Annual Meeting
The Ritz Carlton
New Orleans, LA

2002

March 10-13

Board of Regents Meeting
LaQuinta Resort and Club
La Quinta, CA

March 14-17

ACTL Spring Meeting
La Quinta Resort & Club
La Quinta, CA

July 28-31

Northwest Regional Meeting
Four Seasons Olympic
Seattle, WA

2003**March 16-19**

Board of Regents
Boca Raton Resort & Club
Boca Raton, FL

March 20-23

ACTL Spring Meeting
Boca Raton Resort & Club
Boca Raton, FL

Take a look**Visit Your Website at****www.actl.com**

August G. Rendigs, Jr. Foundation Grants \$150,000 To American College of Trial Lawyers Foundation

The American College of Trial Lawyers Foundation has received a \$150,000 commitment from the August G. Rendigs, Jr. Foundation. The first \$25,000 toward the commitment has been paid to the Foundation.

Roger Fry, FACTL of Cincinnati, Ohio is the trustee of the Rendigs Foundation. In making the grant, Mr. Fry expressed the hope that the Rendigs Foundation could make further contributions as conditions permit. The grant represents the largest contribution to date to the Foundation and will enable the Foundation to explore new opportunities for furthering the goals of the College.

The ACTLF board is in the process of selecting a project to be

funded by the August G. Rendigs, Jr. Fund. While several proposals are being considered, the Foundation would be glad to receive further suggestions.

August Rendigs, Jr. was an outstanding trial lawyer in Cincinnati for a number of years prior to his death in 1954. He left much of his estate to a charitable foundation to be used in projects related to legal education and improvements in the administration of justice. The American College of Trial Lawyers Foundation is pleased and gratified that the Rendigs trustees feel that it can make an important contribution in these areas. □

Lively M. Wilson

President, Foundation of the American College of Trial Lawyers, Inc.

50TH ACTL ANNUAL MEETING OCTOBER 25-29, 2000 WASHINGTON, D.C.

Registration materials for the 50th Annual Meeting will be sent to all Fellows in late June 2000. Registration will be by lottery and Fellows are urged to register and return the materials per the instructions in the packet. Rooms must be obtained through the College office. Space is Limited. Please respond upon receipt to be in the lottery for the meeting. The lottery system is being used as we anticipate a large registration for this 50th Meeting and this will provide all Fellows with an equal chance at registration.

REGISTER EARLY – MEETING SPACE LIMITED

Lord Hope of Craighead Receives Honorary Fellowship

The Right Honorable the Lord Hope of Craighead was presented with an Honorary Fellowship in the College during the 50th Spring Meeting in Maui.

Only those persons who have attained a high degree of respect and imminence in judicial or other roles in the profession or in public service are eligible for election as Honorary Fellows of ACTL.

Lord Hope was born in Edinburgh, Scotland, served as a lieutenant in Scottish Highlanders and attended St. John's College at the University of Cambridge. He studied law at the University of Edinburgh and was in private practice for 24 years as a trial lawyer. He became Queens Counsel in 1978 and served as a prosecutor for the Crown. He was elected and served as chairman of the Scottish Bar for three years. He was appointed as Law Justice General of Scotland and Lord President of the Court of Session, which are the Scottish titles for the office of Chief Justice and President of the Supreme Court. He held these offices for seven years.

Past President Frank C. Jones, who introduced Lord Hope, noted that, "He was the first individual to be appointed directly from private practice to this most senior judicial post in Scotland in the 300 year history of the Court."

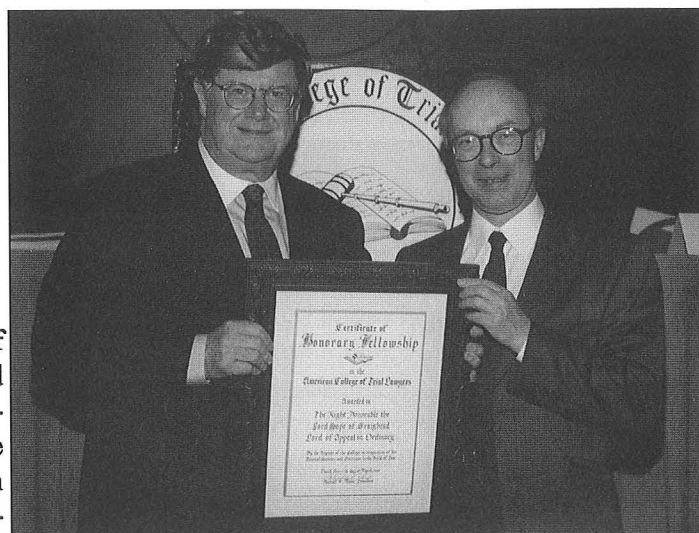
In 1996 he was appointed to sit

in the House of Lords as a Lord of Appeal in Ordinary. There are 12 Law Lords in the United Kingdom – two from Scotland, one from Northern Ireland and nine from England and Wales. When

considering appeals they sit as a committee of five or sometimes seven and are known as the Appellate Committee of the House of Lords. They are the counterpart of the Supreme Courts of the United States and Canada.

This was Lord Hope's first time to visit Hawaii, even though Honolulu was the first American place name that he had heard of. When he was a child during World War II, his family received food parcels sent to Scotland by a Honolulu family. "It impressed me from the very start of my life about the generosity of the American people," he said. "It was a great thrill to fly in through the night and see the lights of Honolulu for the first time and remember these food parcels that had kept our spirits up in very difficult, dark days in Europe in the 1940s."

In closing, he said, "So let me leave you with this picture of the Alice in Wonderland world I come from. It is a world in which people



President Michael E. Mone presents an Honorary Fellowship to The Right Honorable the Lord Hope of Craighead, Lord of Appeal in Ordinary, House of Lords, London, England.

from very ordinary backgrounds who travel to work on foot or by bus or by the London Underground and do not wear robes or wigs or coronets are known and addressed as Lords. It is a world in what you and almost every civilized country would call a court is just called a committee. It is a world in what you would call a judgement or an opinion is called a speech. And yet, it is a world in what we call a speech is never heard because it is never spoken. So, for me, who spends so much time in his life writing speeches, to actually make a speech to a real live audience that I can see is a quite unusual experience. And for that opportunity, and also for the sight of Honolulu in the darkness and all the wonderful things you have given both me and Mary in these few days I thank you all very much indeed." □

First ACTL Access to Justice Award Presented to Four New York Fellows

ACTL Fellows David M. Brodsky, Thomas F. Curnin, Roderick C. Lankler and Frank H. Wohl are the first recipients of the ACTL Access to Justice Award. Presenting the award at the Maui Meeting was Daniel F. Kolb, Chair, Access to Justice and Legal Services Committee.

He explained that the ACTL program offers senior members of the trial bar an opportunity to provide public service through handling major, significant cases pro bono. "The program operates on the premise that the ACTL does not itself bring cases but affords Fellows the opportunity to bring cases, or participate in cases themselves," Mr. Kolb said.

Cases are placed either through the national committee or through corresponding state committees. Currently 19 states participate in some manner in Access to Justice programs.

Mr. Kolb said the awards arose from two major cases, both of which, "have come to a point where the recognition is appropriate."

David Brodsky and Thomas Curnin's case involved the child welfare agency of the City of New York. This agency has responsibility for the protection of some 100,000 children who need daily protection because of the nature of their family surroundings, situations which can often prejudice their safety or their emotional lives.

"Neglect and incapacity of the agency led to extraordinary num-



From L to R, Daniel F. Kolb, Chair, Access to Justice and Legal Services Committee; Award Recipients, Frank H. Wohl and Roderick C. Lankler; and ACTL President Michale E. Mone. Other award recipients not present were David M. Brodsky and Thomas F. Curnin.

bers of situations where children had been severely damaged because the agency was not doing its job," according to Mr. Kolb.

On the eve of trial a compromise was reached that promises sweeping reform of the city agency. The compromise, which includes monitoring by the court, has resulted in replacement of key people at the agency with highly qualified professionals in the field of social work.

Roderick C. Lankler and Frank H. Wohl worked on a case involving the condition of the pre-arraignment detention facilities of the City of New York where people are kept before being arraigned, before being charged with any crime. "The conditions there were so unsanitary that

contracting a communicable disease was regularly thought of as a risk for anyone placed in the facilities," Mr. Kolb said.

Mr. Lankler and Mr. Wohl arranged for a settlement, subject to court monitoring, which made significant improvements. The settlement includes improvements in the size and quality of cells and changing the ventilation system. Other improvements include daily cleaning of cells, extermination services, fire equipment, adequate food service, provisions for potable water, and medical screening units, according to Mr. Kolb.

"I cannot underestimate for you the importance of these cases for the City of New York," he said. □

University of Montana Wins National Moot Court Competition

David S. Cupps, Regent Liaison to the National Moot Court Competition Committee, introduced Bobbi Frazer during the 50th Annual Spring Meeting on Maui. Mr. Frazer represented the winning team from the University of Montana.

Robert McFarland, a student at Pepperdine University School of Law, was the winning advocate. He thanked the College for supporting the National Moot Court Competition and said that he considered this one of the fondest memories of his law school experience, remarking,

"This is one I will cherish for all my life." He also noted that this is a wonderful way for an organization to be actively involved with law students, "and to let them know that the art of advocacy is something to strive for, something to work toward."

Some 980 law students from throughout the country participated in the National Moot Court Competition, which is co-sponsored by ACTL and the Association of the Bar of the City of New York.

President Mone noted that The University of Montana, from which

the winning team came, was also the 1999 recipient of the Emil Gumpert Award for the school's outstanding record of excellence in teaching trial advocacy. □

**The College has a
new
e-mail address**

**Want to send
a message?**

**The new ACTL
e-mail address is:**

nationaloffice@actl.com