
American College of Trial Lawyers

THE BULLETIN

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College Celebrates Fiftieth Anniversary



Panel of Chief Justices highlighted the 50th Anniversary Celebration. Pictured, L to R: Chief Justice of the United States William H. Rehnquist; ACTL Past President Frank C. Jones (at podium); Former Acting Solicitor General Walter Dellinger, the panel moderator; Chief Justice of Canada Beverly McLachlin; and Lord Chief Justice of England and Wales Lord Woolf of Barnes.

The 50th Annual Meeting of the American College of Trial Lawyers began with the induction of new Fellows at a black-tie dinner in the J. W. Marriott Hotel in Washington, D. C. on Wednesday, October 25, 2000.

Presided over by President **Michael E. Mone**, it ended three days later with a formal dinner honoring the Supreme Court of the United States in the National Buildings Museum.

Under the leadership of Past President **Frank C.**

Jones of Atlanta, planning for this celebration of the College's milestone year had begun years earlier.

One Hundred Nineteen New Fellows Inducted

The longest-serving Past President present, **Robert L. Clare, Jr.**, gave the invocation at the induction ceremony. Past President **Lively M. Wilson** described the process by which the inductees had arrived at this occasion. Arrayed on

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American College of Trial Lawyers
THE BULLETIN

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Hon. Emil Gumpert
(1895-1982)

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Sages of their Craft**50 Year History Published**

The 50th Annual Meeting of the College marked the publication of *Sages of Their Craft*, the history of the first fifty years of the American College of Trial Lawyers, written by Marion A. Ellis, Charlotte, North Carolina and Howard E. Covington, Jr., Greensboro, North Carolina. The publication of this work culminated a five-year project.

The title, *Sages of Their Craft*, is taken from the College's induction charge, authored by Founder-Chancellor Emil Gumpert in 1950.

The intent of the committee that supervised this work, chaired by past president John C. Elam, was both to preserve personal accounts of the origin and development of the College and to chronicle the history of the profession itself, particularly the trial bar, over the last half of the Twentieth Century.

Accordingly, the authors were asked to interview every living past president, as well as a number of Fellows, Supreme Court Justices and others who have been closely

associated with the College over the years, including the families and partners of deceased past presidents.

The authors were given complete access to the archives of the College. They sought other materials from the libraries of the American Bar Association and the Law Library of the Library of Congress, as well as from university libraries and other sources in the Inns of Court in London. The materials they collected will be preserved in the College archives.

Dwight Opperman, former chief executive of West Publishing Company, agreed to publish the history at no expense to the College. That commitment, made prior to Mr. Opperman's retirement, was generously honored by West Group after its acquisition of West Publishing Company.

Ellis and Covington are the authors of more than a dozen corporate histories and biographies. Their works include *Terry Sanford: Politics, Progress and Outrageous Am-*

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College Leadership Changes

At the end of the 2000 annual meeting in Washington, D.C., Earl J. Silbert became the 51st President of the American College of Trial Lawyers.

A 1957 graduate of Harvard College, he obtained his law degree from the Harvard Law School in 1960. He is a partner in the Washington office of Piper Marbury Rudnick & Wolfe LLP. Many will remember him as the young government lawyer who prosecuted the Watergate break-in in the early seventies.

In passing the gavel to Silbert, outgoing President Michael Mone commented that, although Silbert is the first College President from Washington, many regard him as the fourth President from Massachusetts, where he was born.

Silbert and his wife, Pat, reside in Chevy Chase, Maryland. They have two daughters.

Installed as President Elect was Stewart D. Shanor, a partner in the Roswell, New Mexico firm of Hinkle, Hensley, Shanor & Martin LLP. A member of the Board of Regents since 1995, Shanor has served for the past two years as Secretary of the College.

Elected to replace Shanor as Secretary was David W. Scott, Q.C. of Ottawa, Canada. Scott becomes the first Canadian officer of the College. He is a member of the Ottawa firm of Borden Ladner Gervais LLP.

Continuing as Treasurer of the College is Warren B. Lightfoot, a member of the Birmingham, Al-

abama firm of Lightfoot, Franklin & White, LLC.

Retiring Regents Edward J. Rice, Jr. of New Orleans, Louisiana, and James F. Stapleton of Stamford, Connecticut were recognized for their years of service, along with all the other former Regents of the College, nineteen of whom were in attendance at the meeting.

Replacing Rice, Stapleton and Shanor on the Board of Regents are: David J. Beck, a partner in the Houston, Texas firm of Beck, Redden and Secrest, LLP; Michael A. Cooper, a partner in the New York firm of Sullivan & Cromwell, and Mikel L. Stout, a partner in the Wichita, Kansas firm, Foulston & Siefkin, LLP.

Under the Bylaws of the College,

vacancies on the Board of Regents are filled by a nominating committee composed of three Regents, one of whom acts as chair, two Past Presidents and two Fellows who are neither Regents nor Past Presidents.

Officers of the College are nominated from among past or present members of the Board of Regents by the Past Presidents, sitting as the Officers Nominating Committee. □

2000-2001 Officers

President Earl J. Silbert
President-Elect Stuart D. Shanor
Secretary David W. Scott, Q. C.
Treasurer Warren B. Lightfoot
Immediate Past President Michael E. Mone



President Michael E. Mone (R) presents plaques to outgoing Regents James F. Stapleton (C) and Edward J. Rice, Jr. (L) and thanks them for outstanding four years of service as Regents of the College.

Montana Lawyer Receives Courageous Advocacy Award

Nicholas Murnion, a sole practitioner in Jordan, Montana, is the latest recipient of the College's Award for Courageous Advocacy. The award, regarded as the College's most prestigious honor, was made at the 50th Annual Meeting in Washington, D. C..

Murnion was recognized for his role in freeing his community from a rein of terror at the hands of the Freemen, a group of anti-government separatists.

Jordan, in rural Garfield County in east-central Montana, has a population of 500. The entire county, roughly the size of Connecticut, has a population of only 1,500. The courthouse accommodates one judge and a secretary, who also acts as the clerk. The sheriff and his one deputy are the only law enforcement officers for hundreds of miles.

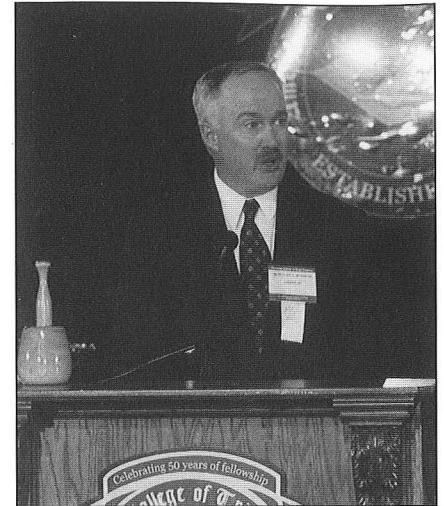
In March 1993 the heavily-armed Freemen sought the seclusion of Garfield County. After Murnion, part-time county attorney and the only lawyer in the county, refused to accede to their demands, they cap-

tured the county courthouse in an 81-day standoff and placed a million-dollar bounty on Murnion's life.

Devoting virtually all his time to this challenge, Murnion, at grave risk to himself and his family, helped to organize citizens into a sheriff's posse. After painstaking legal research into the novel issues presented by the Freemen's challenge to constituted authority, he successfully prosecuted the Freemen's leader and helped to restore order to Jordan.

In presenting the award, Stuart D. Shanor, Secretary of the College, described Murnion's actions as "courageous advocacy in the best tradition of the trial lawyer."

In accepting the award, Murnion said, "My experience in dealing with the Montana Freemen has instilled in me a great appreciation for our democratic form of government and the rule of law. In 1994 ... our people had to make a decision to take a stand against 30 armed insurrectionists, which put their own property and lives at risk. Even with knowledge of the risks, 85 people signed up



Nicholas Murnion accepts Courageous Advocacy Award.

... to assist law enforcement as a sheriff's posse to deal with the situation, which was rapidly escalating into an armed confrontation. In accepting this award I wish to acknowledge the courage of the people of Garfield County and of Montana who have overwhelmingly condemned hate groups wherever they appeared in our state."

Murnion is the 11th person to receive the Courageous Advocacy Award in the 36 years since it was created. □

Fifty Year History Published

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bitions, published by the Duke University Press in 1999, and *The Story of NationsBank: Changing the Face of American Banking*, published by the University of North Carolina Press in 1993.

Both are former journalists whose work at *The Charlotte Observer* was recognized in 1981 with

the Pulitzer Prize for Public Service and by other awards.

A copy of the History has been distributed to every living Fellow, and a copy will be given to each future inductee. □

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William H. Webster Made an Honorary Fellow

William H. Webster, former Director of the Federal Bureau of Investigation and the Central Intelligence Agency, was made an Honorary Fellow during the 50th Annual Meeting of the College in Washington, D.C.

In making the presentation, Past President Thomas E. Deacy, Jr. noted that Webster, a Judge on the United States Court of Appeals for the Eighth Circuit, had given up that life-tenured post at the request of President Jimmy Carter to take over the leadership of the FBI after it had fallen into political disrepute.

Webster, a participant in two past Anglo-American Exchanges sponsored by the College, delivered the Lewis F. Powell, Jr. Lecture at the College's 1999 Spring Meeting.

Before joining the Eighth Circuit

bench, Webster practiced as a trial lawyer in St. Louis between tours of duty in the United States Navy and served as United States Attorney for the Eastern District of Missouri and as a United States District Judge.

In accepting the award, Judge Webster recalled that he had insisted that both the FBI and the CIA were to function "within, not outside, of American law." He quoted the inscription on the Department of Justice that reads, "The United States wins its point whenever justice is done in one of its courts."

Persons selected by the Board of Regents as Honorary Fellows are lawyers not eligible for induction as Fellows, who, through their contributions and achievements in judicial or other roles in the profession or in



President Michael E. Mone (L) congratulates the Honorable William H. Webster (C) on receiving Honorary Fellowship. Past President Thomas E. Deacy, Jr. (R) presented the plaque to Judge Webster.

public service, have attained a high degree of respect and eminence.

Webster is the 78th Honorary Fellow to be inducted in the College's 50-year history. □

Notre Dame Wins 25th National Trial Competition

In an unusual ending, two teams from the Notre Dame School of Law met in the final round of the National Trial Competition, held in the Spring in Dallas. The other semi-finalist teams were from the University of Washington and Temple University.

Shazzie Naseen, Ryan Redmon and Tamara Walker, the members of the winning team, received the Kraft W. Eidman Award. Stone Grissom, a member of the runner-up team, received the George A. Spiegelberg Award as the best oral advocate.

The American College of Trial

Lawyers and the Young Lawyers' Division of the State Bar of Texas jointly sponsor this annual competition. The College provides funding for the event and jurors for various stages of the competition. President Michael E. Mone acted as the presiding judge in the final round.

The Kraft W. Eidman Award, a revolving trophy and a monetary award of \$5,000, is funded by a grant from the Houston firm of Fulbright & Jaworski. The Spiegelberg Award is funded by a grant from the law firm of Fried, Frank, Harris, Shriber & Jacobson. Each participant in the final round of the competition receives a Lewis F. Powell, Jr. Medallion, struck in honor of Justice Powell, a former president of the College. □



Stone Grissom (L), Best Oral Advocate in the 1999-2000 National Trial Competition receives the George A. Spiegelberg Award from President Michael E. Mone (C). Frank N. Gundlach, (R), Regent Liaison of the National Trial Competition Committee, also congratulates Mr. Grissom.

The President's Report

As the College enters the new millennium and also the second 50 years of its existence, it is faced with a number of significant challenges and opportunities. Having grown over the prior 50 years from literally a handful of lawyers to now over 4,000 active trial lawyers from across the United States and Canada, we must ask and find answers to the questions about what truly are our major purposes and functions.

Certainly, good fellowship and enjoyment of one another's company at state, province, regional, and national meetings is vital to the College. In the last few months since the Annual Meeting, my wife, Pat, and I have already had an opportunity to experience the wonderful collegiality of the College in such diverse locations as Montreal; Jackson, Mississippi; New Orleans; Portland, Oregon; and Seattle, Washington. The fellowship is genuine and the hospitality extraordinarily warm.

In keeping with the high standards of the College, we must continue to welcome into our fellowship the very best of the trial bar: no matter who they are (gender, ethnic, religious, racial background), no matter from where they are (city, suburban, rural), or the area of their trial expertise.

We must also continue our efforts to improve the administration of justice. The administration of justice is a fragile flower that needs constant nurturing and attention. The College has many significant projects under way, including a

study of the appropriate role of juries (note taking, asking questions, discussion before trial ends); preparation of a manual for mass tort litigation; critique of and proposals for the United States Sentencing Guidelines; development of science and technology in the court room; co-sponsoring of a national trial competition and moot court competition; teaching of trial advocacy at local law schools; mentoring of younger lawyers; and support of the independence of the judiciary and merit selection.

Adherence to the highest ethical standards has always been an overriding goal of the College. We previously distributed a Code of Trial Conduct throughout the United States and now are in the process of having a similar code distributed throughout the provinces of Canada. We are exploring the preparation of a comparable code for pre-trial conduct.

As we pursue our fundamental goals of fellowship, improvement of the administration of justice, and adherence to the highest ethical standards, there are long range issues we have to address. These include the explosion in the cost of litigation, severely limiting access to the courts; preservation of the attorney-client privilege and confidential communications in the face of challenges to them from the government and certain multi-disciplinary practices; the enormous growth in the size of law firms and increased emphasis on bottom-line financial profits; the revolutionary changes in presentation of evidence



Earl J. Silbert
President

from increased use of science and technology in the courtroom; the perceived fewer number of trials accompanied by decreasing opportunities for young lawyers to get significant trial experience; growing disparity between compensation available to attorneys in the larger law firms and to those who serve in the government or practice in public interest law firms; and increasing emphasis on winning at the expense of professionalism and civility.

What should the role be of the College in responding to these and other issues and problems? Given the extraordinary skills, experience, and talent in the College, can it justify sitting on the sidelines and leaving it to others — the legislatures, bar associations — to address these issues? And if the College is to participate, how should it become involved? How should it make its views known? How active should the state and province committees be in their respective local jurisdictions? Should the College limit its input on policy and legal issues to the courts and the executive branch of government, or should it also express its views to legislative and

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similar bodies that are considering particular aspects of these critical issues? What should the profile of the College be? How well known in your respective communities is the College and what it stands for?

These are among the questions that we should confront and address as we begin our second 50 years. After induction many Fellows have little to do with the activities of the

College. You are busy with your cases and with your involvement with local bar and civic organizations. We encourage you, however, as hectic as your schedules are, to contribute to the College and its activities. These include the projects at the local level, as well as the work of our general committees. We also welcome your input into the College's response to the broader challenges facing our profession and the College. The College

leadership has scheduled a Retreat to address many of these issues in May, 2002. Much can be done before the Retreat. Contact your local, state, and province chairs about becoming involved, providing your ideas and suggestions. Do the same with the leadership of the College. We want to hear from you. □

Earl J. Silbert

James E. Brosnahan Receives Samuel E. Gates Litigation Award

James E. Brosnahan of San Francisco has become the 15th recipient of the Samuel E. Gates Litigation Award. The award is given by the firm of Debevoise & Plimpton in memory of Gates, a president-elect of the College who died in 1979. It recognizes a lawyer or judge who has made significant contributions to the improvement of the litigation process.

Brosnahan, a partner in the firm of Morrison & Foerster and a Fellow of the College since 1977, was one of the founding members of the National Institute of Trial Advocacy.

A prolific author and lecturer, he has been named by *The National Law Journal* as one of the ten best trial lawyers in the United States. He has written hundreds of articles on trial practice as well as two trial handbooks and an acclaimed taped lecture series on great trials.

In presenting the award, Sylvia H. Walbolt, Chair of the Gates Award Committee, said, "In a day and age when the practice of law has become for so many a business, instead of a profession, James Brosnahan stands as a remarkable example of a true professional who has given generously of his time, his experience and his talents to enhance trial practice and advocacy. With the benefit of his long and broad experience, he has taught others to become more accomplished trial lawyers."

Noting that he was a fourth-generation Irish-American whose ancestors, as Catholics in Ireland,

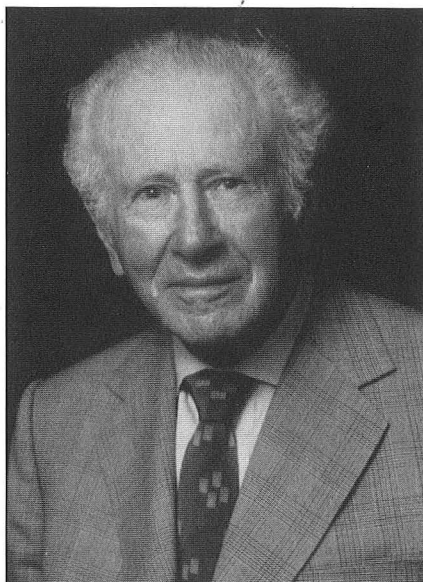


President Michael E. Mone (R) presents the Samuel E. Gates Litigation Award to James J. Brosnahan (C) while Sylvia H. Walbolt, (L) Chair of the Gates committee, looks on.

would not have been allowed to practice law, Brosnahan said, "I got to law school because a man ... I never saw before or after reached into his oak desk and wrote me a check for \$1,400 to go to the Harvard Law School ... I have tried to put back into the profession what I could, but ... the balance has always given me more than I could put back in."

Brosnahan also paid tribute to his fellow Californian and past president Joseph Ball, who died last year, who he said "personified the traditions of the American trial bar." Ball was the third recipient of the Gates Award in 1983. □

In Memoriam



JOSEPH A. BALL
(1902-2000)

Joe Ball liked to describe himself as a “country lawyer.” It is true that he was born in a small country town in Iowa. But others might have challenged his description. Emil Gumpert, Founder-Chancellor of the College, told *Time* magazine in 1973 that Joe Ball “is one of the few lawyers who can try any kind of litigation — criminal, civil, anti-trust, patent, anything. He’s the best trial lawyer I’ve ever seen.” Former U.S. Supreme Court Justice William Brennan once said Joe was the best lawyer he had ever seen.

This country lawyer was studying quantum physics and the development of “string theory” in physics until two months before his death. He was a lifelong student of mathematics, literature, history and the classics.

But above all, he loved the courtroom. Joe tried over 500 cases. His victories were often stunning, as a few examples will show. In one case two public officials were convicted of receiving a bribe from Joe’s client. In a separate trial, Joe’s client was found not guilty of giving them that same bribe.

In an oil and gas case, the plaintiff’s first witness was an engineer who testified that mathematical calculations showed that Joe’s client, an oil company, had trespassed on the plaintiff’s property in drilling a well.

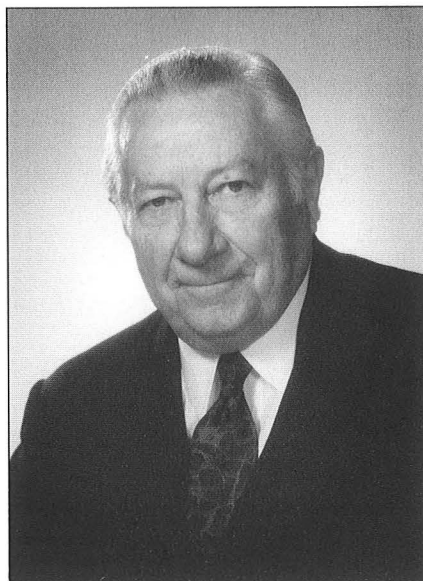
Listening to the testimony, Joe’s math background paid off. He realized the engineer had misread trigonometric tables in calculating certain angles. His cross-examination elicited an admission that the calculations were wrong.

Joe won a will contest case when he jumped to his feet and challenged a Greek-language interpreter’s version of a phrase used by a witness who was testifying in Greek. The interpreter conceded that Joe’s different interpretation was correct.

There was a kind of magic in the way Joe tried a case. He was never flamboyant. He never preached or harangued. His was the voice of quiet reason. If you saw him talking to a jury you would be reminded of a friendly visit with a neighbor over the back fence. He had a gift for arguing a case in a way that convinced the listener that this was a mutual exchange of views working toward the right result.

He did it with plain, simple words. Some of the lawyers he admired used ornate language, but that wasn’t Joe’s style. Above all, his speech and writing were clear and unpretentious. This student of literature and language wryly pretended he didn’t understand

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MORRIS HARRELL

(1920-2000)

The life and brilliant legal career of Past President Morris Harrell came to an end on May 23, 2000. Morris served as the 38th President of the American College of Trial Lawyers in 1987-88, and since that time continued to provide leadership to the organization as a Past President and Ex Officio Member of the Board of Regents. Fifty individuals have served as President of the College, and only six of these served also as President of the American Bar Association. Morris Harrell was one of the six.

Since 1945 Morris lived and practiced in Dallas, Texas, following his return from military service during World War II. But his roots were in the small towns of Texas. An only child, he was born in Grandview, a small community southwest of Dallas. After several family moves, he graduated from high school in Hillsboro, Texas, and enrolled that same year at Baylor University as a pre-law major. In 1942 he graduated with a bachelor's degree in business administration and a law degree. His legal career was put on hold during his military service as a Navy Ensign, which included service in the South Pacific at Guadalcanal, the Philippines, and Iwo Jima.

In the early years of his career, Morris was a sole practitioner, except for four years spent, beginning in 1947, as an Assistant U.S. Attorney for the Northern District of Texas. In 1955 he joined the prominent

Dallas firm of Thompson & Knight, where he specialized in trial work. After a decade with the firm, he teamed with five other attorneys to form Rain, Harrell & Emery, later known as Rain Harrell Emery Young & Doke. The firm later merged with another outstanding and larger Dallas firm, and become Locke Purnell Rain Harrell. As a result of still another merger Morris was practicing at the time of his death with Locke Liddell & Sapp, LLP, one of the largest firms in Texas.

Morris' commitment to the profession is reflected in his bar activities. In addition to his leadership role as President of the ABA and the College, his service included:

- President of the Dallas Bar Association during 1962-63
- President of the State Bar of Texas during 1970-71
- President of the National Conference of Bar Presidents during 1976-77
- Member of the American Law Institute and Past Chairman of the ALI/ABA Committee on Continuing Professional Education
- Trustee and Research Fellow of the Southwestern Legal Foundation
- State of Texas Delegate to the House of Delegates of the ABA during the years 1971-1978

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EDWARD BRODSKY
(1929-2000)

Past President Edward Brodsky died suddenly and unexpectedly August 11, 2000 after a long but well-concealed illness. The College has lost an eminent spokesman. The profession has lost a superb advocate.

Ed was seventy when he died. Born in New York City, he received a Bachelor's degree from City College of the City University of New York and his law degree *cum laude* from New York University School of Law, where he was Associate Editor of The New York University Law Review.

Shortly after his graduation from law school, Ed was asked to join the staff of a newly created Special Group on Organized Crime in the Department of Justice. He did so for about two years, then became an Assistant United States Attorney in the Southern District of New York. There he served as Chief of the Special Prosecutions Division. Leaving government, he joined the firm of Goldstein, Judd and Gurfein. In 1977 he helped found the firm of Spengler, Carlson, Gubar, Brodsky & Fischling. He left that firm to join the Proskauer Rose firm in 1992.

During his early years at the bar, Ed evolved into one of the great trial lawyers at the New York Bar. He soon became one of the premier commercial and securities litigators in the city. The qualities which led to his success became manifest and were increasingly recognized by his peers at the bar. Loyalty, caring, stead-

fastness, a scrupulous sense of fairness, superb judgment, a quiet dedication to his client's cause, and a mastery of his craft led to a burgeoning clientele and an exposure to the most subtle and complex legal issues of the day.

Ed was the defense lawyer for Meade Esposito, a retired Democratic party leader in Brooklyn who was indicted on charges of making illegal payments to Mario Biaggi, a Democratic congressman from the Bronx. In 1987, Mr. Esposito was acquitted of bribery and convicted of a misdemeanor — giving a gratuity to a public official. He was fined and given a suspended sentence.

Mr. Brodsky represented many companies charged with securities fraud. Among the cases were a number of civil actions involving corporations controlled by the financier Ivan F. Boesky, who pled guilty to a criminal charge of securities fraud.

He was co-author of the book *Law of Corporate Officers and Directors* (1985, Thomson) and until his death he wrote a monthly column on corporate and securities litigation for the *New York Law Journal*.

His reputation increased, and in 1973 he was invited to become a Fellow of the American College of Trial Lawyers. In 1997, Ed was elected President of the College, an office which he filled with great distinction.

(Continued on page 11)

Ed was appointed to the Anglo-American Exchange which met last year in Edinburgh and London and in Washington in September 2000. The Exchange consists of five judges and four lawyers from the United Kingdom and five justices or judges and five lawyers from the United States. It meets every five years to discuss matters of interest to the judges and lawyers of both countries. Ed was a dynamic and valuable participant in the United Kingdom last year. He contributed much to the work and success of the Exchange.

Ed was a brave man. Though he suffered for over six years from the disease which finally proved fatal, no one outside of his immediate family knew of the terrible burden he carried. He soldiered on with his normal activities with diligence and good humor. Not once did he complain and never did he allude to his illness. Characteristically, he edited the final draft of the paper he contributed to the September 2000 Anglo-American Exchange by telephone from his doctor's office six days

before he died. He was always cheerful, upbeat and optimistic. Never did he allow self-pity to intrude into his daily life.

Finally, one should note the most important factor in Ed's life, one which gave meaning and substance to everything he ever did and provided him with great happiness and solace throughout his life. His solicitude, devotion and love for Cynthia, his pride and satisfaction in the accomplishment of his sons, James, Peter and Billy, his love for his daughters-in-law, Leslie and Karen, and his joy and delight in his grandchildren, Noah and Skye, were the lodestar of his life.

The College is much the poorer for his death. His friends are all the better for having known him and having been touched by him. □

Adapted from an oral tribute delivered by Past President Leon Silverman

August 13, 2000

JOSEPH A. BALL

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words like "decade" or "apocryphal." He would say "ten years" or "phony." He studied Latin in school for four years, but never used Latin phrases.

Joe once said that "by associating with first-rate lawyers, I got the knack of trying cases." The accuracy of that understatement was recognized by the California Court of Appeal in a 1985 decision that said, "Not everyone can be a Daniel Webster, a William Jennings Bryan or a Joseph A. Ball."

His courteous, friendly courtroom style combined with uncommonly good judgment. He had an uncanny instinct for the bullseye, the ability — and courage — to find and emphasize the one or two central facts or issues and discard the others.

In or out of court, Joe was a remarkable human being. He had a natural sympathy for the underdog and an unusual tolerance for human frailty. He liked people, and he understood why they got into trouble. For instance, someone might say to Joe that a person was lying. A man of unimpeachable honesty himself, Joe would smile and muse that he too might have stretched the truth in the same circumstances. His empathy and ability to express it in plain language were powerful courtroom tools.

And in or out of court, he was fearless. In the 1950s, during the McCarthy era, lawyers were afraid to represent or to be identified with accused Communists. As president of the State Bar of California, Joe made speeches around the country reminding lawyers of the principle of an independent bar, that lawyers represent their clients, not their clients' causes. He insisted that lawyers had an obligation to represent the victims of McCarthyism.

When Earl Warren, Chief Justice of the United States, was under attack and threatened with impeachment for his judicial decisions, Joe rose in defense of his good friend. He described Warren as "one of the finest men I ever knew — he was strong physically, morally and mentally, and had a great soul."

Joe was a truly original thinker. He was skeptical of conventional pieties. He was wary of reaching conclusions "on principle." Of course if principle meant integrity, he was a man of principle. But for Joe, while a claim of "acting on principle" sounded good, it was too often a way of justifying extreme ideologies that solved problems according to doctrine instead of independent analysis. Joe was a pragmatic man whose ideology, if he had one, was an optimistic view of human nature, an abiding belief that people of good will could reconcile differences and reach workable solu-

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JOSEPH A. BALL

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tions.

Joe's generous spirit was reflected in a recent discussion of the decline in civility at the bar: "There are still more civil lawyers than uncivil ones, but when you increase the number of lawyers, you increase the number of rascals who get into the profession . . . For example, I went into a deposition one time with a lawyer who had a particularly nasty temperament. I asked to borrow his phone to call my office. He said, 'No, down the hall there's a pay phone.' That's not the kind of person I wanted to associate with. And yet, if he called me afterwards and asked for a favor, I would have given it to him."

Among the countless honors and awards that Joe received in 73 years of practicing law are these:

- President of the American College of Trial Lawyers;
- The College's Samuel E. Gates Litigation Award;
- Senior counsel on the Warren Commission and author of the Warren Report's two chapters dealing with the identities of President Kennedy's assassin

and the weapon used;

- The Learned Hand Award of the American Jewish Committee's Institute of Human Relations;
- The Great Advocate Award from the University of California;
- Creation of the Joseph A. Ball Litigation Achievement Award by the Brennan Center for Justice at New York University.

Joe often expressed his admiration of people by calling them "first rate." He would have accepted William Faulkner's definition of that label as a person "that did the best he could with what talents he had to make something which wasn't here yesterday . . . that [he] . . . never harmed the weak, practiced honesty and courtesy, and tried to be as brave as he wanted to be whether he always was that brave or not."

When Joe Ball died on September 21, 2000 at age 97, we lost a first rate country lawyer. □

Anthony Murray

MORRIS HARRELL

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These are only highlights. He also served as chair of numerous important committees and commissions, which addressed major issues of the profession and the American judicial system. Although Morris' accomplishments and acts of service are too numerous to mention in full, they are evidenced by his having received in 1998 the American Bar Association Medal, the highest award of the Association, at which point he was cited as a "lawyer's lawyer." On that occasion he was described by the then-President of the Dallas Bar Association as "one of the heroes of the profession."

Morris rose through the ranks to become one of the most important legal figures in the country. His skills as both a trial and appellate lawyer earned him nationwide the respect and admiration of courtroom friend and foe alike. He was known for his quiet effectiveness, and not for flamboyance. It is legendary that a client, during a court recess, asked him to march back into the courtroom and "give the other side hell." The

client wanted to see fireworks – courtroom histrionics. Harrell listened patiently, then inquired if it was all right with the client if he returned to the courtroom and "just won the suit quietly." The client acquiesced and Morris performed as promised.

His career was marked by his high ethical standards, his diligence, his preparation in the legal assignments he undertook, and his intellect. But there was much more to Morris Harrell. Despite his distinguished record of achievement, he was a modest man. Of unassailable character, he had a marvelous sense of humor, and was courteous, friendly, courtly, kind and gentle. He was all of this – it seems impossible that anyone could not like Morris Harrell.

During and after his stints as President of the ABA and of the College, Morris stressed his pet theme: professionalism. He believed passionately that the law is a profession, and not just a business. He was keenly aware of the obligations of the lawyer to serve his community and fellow citizens, and his fellow professionals. In his own words he "wanted the respect [of

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Notable Quotes From The 50th Anniversary

"What started as a gathering of ten lawyers for a barbecue in Los Angeles in 1950 culminates this week in our nation's capital with a gathering of 1,400 people to celebrate our fifty years of fellowship. An organization that only gathered the best trial lawyers . . . might have survived fifty years, but it would not have been the American College of Trial Lawyers, because without our unique emphasis on fellowship it would be a very different organization."

President Michael E. Mone

"We must not become so immersed in our daily activities that we stop caring about the great need to always focus our eyes and intelligence and our efforts on making the justice system better. We are more than trial lawyers. We are representatives of all our people in resolving disputes, to the end that we have a more orderly society . . . We are privileged to be trial lawyers, but, as such, we are also trustees of the justice system. We have been faithful to that trust and I am confident we will continue to be."

Past President Griffin B. Bell

"There are many people who believe a moral, caring legal profession to be, like the unicorn, a product of mythic imagination, the romantic vision of what could be. Some things must be believed to be seen . . . In seeing the law as a noble calling, you may constitute only a minority of our profession. But a prophetic minority always has more to say than any majority, 'moral' or 'silent.' The will can do the work of the imagination. If you believe, you will see."

Professor John Reed

"America has never been more in need of its Lewis Powells. Our country is in the throes of bitter cultural wars which always seem to end up in the courts. And while our multiculturalism is cause for joy and celebration, it poses the danger of unprecedented racial and ethnic tensions for our great land. Many times I have wished that Lewis Powell were here to help us bridge these gaps. During his long life, he always sought first to soothe feelings and to bridge differences. America needs believers in the possibility of compromise . . . Here was a man who has experienced the deprivation

of the Depression, the challenges of World War II, the racial conflicts of the 1950's, the protests and divisions of the 1960's, the combustible issues before the Supreme Court through the 1970's and 80's, and had seen his beloved country come through it all. And to . . . know that his life ended on a note of optimism and hope is to refresh our faith in the possibilities of law, the profession that Lewis Powell believed was the greatest of them all."

Chief Judge J. Harvie Wilkinson, III

"The American College of Trial Lawyers has been true to its professional commitment in upholding the highest standards of advocacy, and hence will serve the ends of justice — and serve them well."

Judge William H. Webster

"Whether they [investigations by independent counsel during the Clinton administration] were worth it, only history will decide. As for me, I believe this 'gotcha' environment on either side of the aisle is very, very unhealthy. I am also worried that it will drive good people . . . away from public service in the future, and I believe that would be a tragedy."

Erskine Bowles, Former
White House Chief of Staff

"The twentieth century is not going to be remembered for its wars or its technological innovations, it is going to be remembered as the era in which we stood by and either actively endorsed or passively accepted the massive destruction of both biological and cultural diversity on this planet. One million forms of life have been driven extinct in the last twenty-five years. Half of humanity's legacies are being lost in the loss of the languages, loss of culture. It is curious that genocide, the physical extinction of people, is universally condemned, but ethnocide is not only not condemned, but is still in many parts of the world embraced as proper public policy."

Dr. Wade Davis,
National Geographic Explorer in Residence

"Supreme Courts are not in the business of reflecting contemporary fashions or voicing of ephemeral

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Seventh Anglo-American Exchange Meets in Washington, D.C.

The second phase of the 7th Anglo-American Exchange took place in Washington, D.C. the week of September 18, 2000. The delegates had first met in Edinburgh and London in September 1999.

Twenty delegates from each country spent a week together, exchanging papers and ideas on a variety of subjects.

The United States team was led by Associate Justice Anthony M. Kennedy and immediate Past-President of the College, E. Osborne Ayscue, Jr. The remaining United States delegates were: Associate Justice Clarence Thomas, California Chief Justice Ronald M. George, Tenth Circuit Court of Appeals Judge Deanell R. Tacha, Judge Sam C. Pointer, Jr., and College Fellows Leon Silverman, Andrew M. Coats, Sylvia H. Walbolt and Lively M. Wilson. Wilson replaced the late Edward Brodsky for the second phase of the Exchange.

The British Delegation, led by Senior Law Lord Thomas Bingham, included Lord Chief Justice Harry Woolf, Lord Justice-General of Scotland Alan Rodger, Lord Justice John Mummery, Mr. Justice Maurice Kay, Sir Hayden Phillips, Clerk of the Crown and Chancery, Cambridge Professor Jack Beatson, Lord Peter Goldsmith, Sir Sydney Kentridge and Jeremy P. Carver. Bingham, Woolf and Kentridge are Honorary Fellows of the College.

The subjects discussed included

multi-disciplinary practice, technology in courts, judicial selection and appointment, sentencing procedures in criminal cases, changes in the market for legal services and the teaching of ethics and professionalism.

In order to allow the judicial del-

egates to participate freely in candid and constructive discussion, the papers produced for these Exchanges are not published and the proceedings are not transcribed.

Such Exchanges afford judges and lawyers an opportunity to explore how they approach common problems. They also afford the judges the opportunity for candid discussion with the lawyers who practice before them.

Though our two legal systems, which spring from common roots,

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Delegates at the Anglo-American Exchange observed a criminal trial at the Fairfax County, Virginia courthouse. (Front row, l to r): Tenth Circuit Court of Appeals Judge Deanell R. Tacha; Senior Law Lord Thomas Bingham; Associate Justice Anthony M. Kennedy; Chief Judge of the Circuit Court of Fairfax County, F. Bruce Bach; Associate Justice Clarence Thomas; Fairfax Circuit Court Judge R. Terence Ney JFACTL; Lord Chief Justice Harry Woolf; and Chief Justice of California Ronald M. George. (Second row) Mr. Justice Maurice Kay; Lord President Alan Rodger of Scotland; Judge Sam C. Pointer, Jr.; Lord Peter Goldsmith, Q.C.; Sir Sydney Kentridge; Lively M. Wilson FACTL; E. Osborne Ayscue, Jr. FACTL; Leon Silverman FACTL; Lord Justice John Mummery; Professor Jack Beatson, Q.C.; Dean Andrew M. Coats FACTL; Sylvia H. Walbolt FACTL; Sir Hayden Phillips KCB; and Commonwealth Attorney Robert F. Horan, Jr. FACTL.

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have gone their own way for over 200 years, it is significant that judges at the highest levels of both countries regularly seek to perpetuate these Exchanges.

The first Anglo-American Exchange, in 1969, grew out of the College's close association with key members of the British Judiciary. Then Chief Justice Warren Burger agreed to lead the United States team to the second Exchange, in 1973, if the lawyer members of the United States delegation were Fellows of the College.

To this day, that tradition has continued, and the College has continued to co-sponsor the Exchanges. Fellows of the College who are se-

lected as delegates pay their own way.

While in Washington, the delegates and their wives were hosted by both the United States Supreme Court and the British Ambassador. Another high point of the week was a dinner on the piazza at Mount Vernon.

As part of the professional program the delegates visited the Fairfax County, Virginia courthouse, where they observed the opening stages of a criminal trial, including selection and preliminary instruction of the jury and the direct and cross-examination of the prosecuting witnesses. The presiding Judge was R. Terence Ney, a Judicial Fellow. The Fairfax County Commonwealth Attorney, Robert F. Horan, is also a Fellow.

Afterwards, several of the British

delegates remarked privately that what they had seen in Judge Ney's court had disabused them of some of their preconceived (and negative) impressions of jury trials in the United States.

Members of the United States Supreme Court who have participated in these exchanges have on numerous occasions acknowledged the College's valuable contribution to the administration of justice in both of our countries through its sponsorship of these Exchanges.

In the past the College has also sponsored similar exchanges with Canada and India. □

MORRIS HARRELL

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the public] for what I regarded to be a great profession."

Morris was a devoted family man. In 1943, he married Rhoda "Rusty" Baylor, who became his loving companion for life. He told an interviewing reporter of the *Dallas Morning News* in 1987 that "she is just a wonderful girl in every way," and when asked who was the person who had the most impact on his life, he replied "my wife." In addition to his beloved Rusty, Morris was survived by their son, Jim and two daughters, Julia Harrell Boone and Rhoda Harrell Reynolds, and seven grandchildren.

Morris never felt the need to sacrifice family time for business, and adjusted his busy schedule, which routinely required six-day weeks, to accommodate his family. He cher-

ished, at the end of a busy day to have, as he put it, "the refreshment of family life."

He took great pleasure in mentoring young lawyers, whether within or outside his own law firm. He lectured and wrote numerous articles on the profession. On March 23, 1988, Morris delivered the Frank M. Wilson Memorial Lecture at the Baylor University School of Law, and chose the subject, "Law: A Business or Profession?" On that occasion, he told his audience, primarily new law graduates:

It may be impossible to return to the days when the lawyer's representation was more personalized. But if we are to retain our status as a respected profession, the essential role of the lawyer as adviser, counselor, teacher, and friend must not change.

And he went on to say:

Whatever you do, your legal edu-

cation will stand you well. Wherever you go to practice law whether it be on a corporate legal staff, a law office, a large or small community – there must be room in your life for broad professional considerations and participation. Do not leave your profession to others. Be a part of the solution to any problems that develop in the administration of justice.

This was sound advice for those who heard him speak that day at the Baylor Law School – advice based on Morris' way of doing things. Those who were privileged to have known him will remember him with deep affection. His passing leaves an enormous void in the ranks of the profession and in the Fellowship of the American College of Trial Lawyers. □

Gene W. Lafitte

(Continued from page 13)

opinions or providing short-term solutions. Supreme Courts can never forget that they are the guardians of the Constitution, and their decisions will have an effect, for good or ill, on generations yet unborn, on the institutions they inherit and the society in which they live . . . [L]awyers, judges and courts all around the world are on trial as they have never been before. And this poses real challenges for all of us. But we have a rich endowment, a tradition of learning, stretching back to the earliest days of the common law, a tradition of practical, down-to-earth common sense, distrustful of untried theory, respectful of what works, a tradition of hard work, a tradition of independence, a tradition of

mutual respect between advocate and judge, reflected in this great banquet for the Supreme Court this evening, a tradition which values integrity, intelligence, judgment, restraint, open-mindedness, humor, courtesy and courage."

Lord Thomas Bingham,
Senior Lord of Appeal in Ordinary

"[This] does allow me to say something I have wanted to say in the dozen or so times I have appeared before you, [and] this is my one and only chance to say this, and so I will conclude on a personal note: Mr. Chief Justice, your time has expired."

Walter Dellinger, moderator of the panel of
Chief Justices

50th Annual Meeting

(Continued from page 1)

risers facing all the Past Presidents and the audience, the inductees then heard a recording of Chancellor Emil Gumpert delivering the induction charge he had written fifty years earlier.

College History Celebrated

The first morning of the meeting, which featured three days of programs instead of the usual two, marked the introduction of *Sages of Their Craft*, a 50-year history of the College. Authored by **Marion A. Ellis** and **Howard E. Covington, Jr.**, the printing of this work, commissioned five years earlier in anticipation of the anniversary celebration, was a gift from the West Group.

In introducing the program, Past President **John C. Elam** recalled, "The dream of the College began in the fertile mind of a small-town lawyer in California on a train ride in 1950." **Emil Gumpert** conceived of an organization composed of the very best trial lawyers from throughout the United States. "He envisioned not just another professional organiza-

tion, but a fellowship of trial lawyers who shared a love and respect for the law and would be bound by the common experiences . . ." Elam said.

The first Board of Regents was composed of the members of a California Bar committee who acted upon their colleague's idea. During their first formal dinner at an annual meeting of the California Bar, they invited **Cody Fowler**, the incoming President of the American Bar Association, to join them. During Fowler's ABA presidency he took the time to identify trial lawyers worthy of fellowship and to suggest them to the Regents. In great part through his efforts, the College quickly became national in scope.

The speakers who followed Elam addressed various aspects of the College and its work. Past President **Ralph I. Lancaster, Jr.** recounted the genesis of the College's Code of Trial Conduct, its first effort to reach beyond its own members to the entire profession. He also narrated a slide show recalling some of the College's more notable meetings.

Past President **Robert B. Fiske, Jr.** addressed the College's historic commitment to public service. As

examples of the impact that Fellows of the College have had on the nation, he singled out Associate Justice **Lewis F. Powell, Jr.**, **Leon Jaworski**, **Griffin B. Bell**, **Warren Christopher** and **Morris Harrell**. Fiske also noted that twelve of the persons selected over the years as Special Counsel or Independent Counsel, beginning with Watergate, had been Fellows.

Past President **Thomas E. Deacy, Jr.** recounted the 25th Anniversary meeting in Acapulco, which he led, and described the College of that day.

Past President **Leon Silverman** described the Award for Courageous Advocacy, the College's most prestigious award, and the advocacy that had led to each award. **William R. Gray**, who received the award in 1985, responded for all the recipients.

Canadian Supreme Court Justice **John C. Major**, a Judicial Fellow, described the growth and activities of the College in Canada, beginning with the induction of the first Canadian Fellow in 1952.

Past President **Charles B. Ren-**

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Immediate Past President's Report

Thank you for the privilege of serving as the 50th President of the American College of Trial Lawyers. Nothing I have done in my professional life has matched the experience of serving as your President in our 50th anniversary year. The American College of Trial Lawyers is different from any other group, not simply because we have the very best trial lawyers in the country on our roster, but because of the emphasis we place on the fellowship that sustains this wonderful organization. In the 25 states and four provinces of Canada that Margie and I have visited over the last year, we have never felt ourselves to be strangers. We have been consistently and warmly welcomed in each and every case, and we have found common experience with every Fellow we visited. We have never left a meeting without feeling honored that we had had a chance to visit, have fun, and learn from you.

Our activities this year have covered a very broad spectrum. At the end of this report, I have included an appendix of the work of our committees. As part of my retrospective on last year's events, however, I would like to highlight some of that committee activity for you.

In recognition of the significance of the College's landmark 50th anniversary, we devoted a great deal of our energies to the preparation for our annual meeting in Washington, DC. Fortunately, we were well prepared for our task by the work of the

Meeting 2000 Committee, established four years ago and chaired by past president Frank Jones of Atlanta. The committee was formed to allow for the long-range planning of the 50th anniversary festivities which, given the relatively short tenure of our presidents, would be impractical to assign to a single President or President-Elect. Frank's committee, therefore, undertook to recommend to the Board of Regents many of the special events, venues, and guests who highlighted our four days in Washington in late October.

On the recommendation of the committee, the Board of Regents extended an invitation to all of the College's Honorary Fellows to join us in celebration of the mission of the College and the 50th anniversary of our fellowship. Response to this invitation was enthusiastically received: the Washington meeting's program included members of the United States Supreme Court, the entire Supreme Court of Canada, and many of our Honorary Fellows from the United Kingdom. In addition to gathering successfully a full complement of Fellows and Honorary Fellows, the Meeting 2000 Committee planned a host of outstanding events for the celebrations. Included were a reception at the Library of Congress; a special induction dinner on Wednesday night; and the meeting's grand finale – a banquet on Saturday night honoring the Supreme Court of the United States at the beautiful National Building Museum. Our general sessions on Friday and Sat-

urday included a presentation of the Courageous Advocacy Award to Nickolas C. Murnion of Jordan, Montana; the presentation of the Samuel Gates Award to Attorney James J. Brosnahan of San Francisco, California; and a presentation of the Honorary Fellowship to William Webster of Missouri and Washington for his extraordinary service to his country as a federal judge, Director of the FBI, and Director of the Central Intelligence Agency. The program concluded on Saturday morning with a panel discussion among three of our Honorary Fellows: the Chief Justice of the United States, the Chief Justice of Canada, and the Lord Chief Justice of England. That discussion between Chief Justice Rehnquist, Chief Justice McLachlin, and Lord Woolf was moderated by Walter Dellinger, who is a former acting Solicitor General and professor of law at Duke University. On behalf of all of the Fellows, I thank Frank Jones and his committee and Earl Silbert, President-Elect, for arranging this extraordinary celebration.

History Committee.

In 1994, in anticipation of the College's 50th anniversary, the Board of Regents created a History Committee chaired by John Elam, which included three other past presidents – Bob Clare, Morris Harrell, Gael Mahony – and two Regents who became President, Ozzie Ayscue and Andy

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One Hundred Nineteen New Fellows Inducted



ALABAMA: George P. Ford, Gadsden; Jim Yance, Mobile **ARIZONA:** Tom Henze, Phoenix; Patrick J. McGroder III, Phoenix **ARKANSAS:** Woody Bassett, Fayetteville **NORTHERN CALIFORNIA:** Cristina C. Arguedas, Emeryville; Chester A. Rogaski, Jr., Vallejo; Christopher H. Wing, Sacramento **SOUTHERN CALIFORNIA:** William W. Hodgman, Los Angeles; Robert A. Meyer, Los Angeles **COLORADO:** Michael T. McConnell, Denver; Laird T. Milburn, Grand Junction; Daniel M. Reilly Denver; Thomas L. Roberts, Denver; Elizabeth A. Starrs, Denver **CONNECTICUT:** Christopher D. Bernard, Bridgeport **DISTRICT OF COLUMBIA:** Maureen E. Mahoney, Washington; Lawrence S. Robbins, Washington; Daniel E. Toomey, Washington **GEORGIA:** J. Matthew Dwyer, Jr., Atlanta; Bill Franklin, Savannah; W. Ray Persons, Atlanta; Donald F. Samuel, Atlanta; Charles W. Stephens, Gainesville **IDAHO:** David W. Cantrill, Boise **ILLINOIS:** Don Brown, Chicago; Jack Carriglio, Chicago; William F. Cunningham, Wheaton; James P. Dorr, Chicago; Thomas M. Durkin, Chicago; Linda L. Listrom, Chicago; Kay L. Schichtel, Chicago **INDIANA:** John O. Feighner, Fort Wayne; James F. Groves, South Bend; Frederick R. Hovde, Indianapolis; Jon F. Schmoll, Merrillville **IOWA:** Alan Fredregill, Sioux City; Richard S. Fry, Cedar Rapids; Bob Waterman, Jr., Davenport **KANSAS:** Jay F. Fowler, Wichita **KENTUCKY:** Gregory K. Jenkins, Lexington **LOUISIANA:** Robert J. David, New Orleans; Mark C. Surprenant, New Orleans **MARYLAND:** C. Christopher Brown, Baltimore; Larry Alan Ceppos, Rockville; Steven A. Hamilton, Chevy Chase **MASSACHUSETTS:** Lisa G. Arrowood, Boston; Janice Bassil, Boston; Robert W. Casby, Boston; R. J. Cinquegrana, Boston; Judith L. Lindahl, Boston; Richard Tucker, Worcester **MICHIGAN:** Richard A. Kay, Grand Rapids **MINNESOTA:** Mark A. Hallberg, Minneapolis; Gary Hoch, Minneapolis; H. Jeffrey Peterson, Virginia; Philip A. Pfaffly, Minneapolis **MONTANA:** Alexander (Zander) Blewett, III, Great

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Falls; Steven J. Harman, Billings; Stuart L. Kellner, Helena **NEBRASKA**: William G. Dittrick, Omaha **NEW JERSEY**: Daniel J. Pomeroy, Springfield **DOWNSTATE NEW YORK**: Ben Brafman, New York; Leslie Gordon Fagen, New York; Francis G. Fleming, New York; Richard Godosky, New York; Shawn P. Kelly, Mineola; William McGuinness, New York; Robert C. Morgan, New York; Kenneth A. Plevan, New York; William J. Schwartz, New York **UPSTATE NEW YORK**: Robert F. Julian, Utica; Eugene E. Napierski, Albany **NORTH CAROLINA**: Wade E. Byrd, Fayetteville; James P. Cooney III, Charlotte; Bill Raper, Charlotte **NORTH DAKOTA**: Stephen W. Plambeck, Fargo **OHIO**: Daniel J. Buckley, Cincinnati; Albert L. Purola, Willoughby; Carolyn A. Taggart, Cincinnati **OKLAHOMA**: John N. Hermes, Oklahoma City; Jim Kirk, Oklahoma City; John W. Norman, Oklahoma City; Allen M. Smallwood, Tulsa **OREGON**: Robert H. Fraser, Eugene; Chris Kitchel, Portland **PENNSYLVANIA**: Francis P. Devine, III, Philadelphia; Christine L. Donohue, Pittsburgh; Peter J. Hoffman, Philadelphia; Philip G. Kircher, Philadelphia; Martha Hartle Munsch, Pittsburgh; James D. Pagliaro, Philadelphia; Roberta D. Pichini, Philadelphia; Joseph A. Quinn, Jr., Wilkes-Barre; Shanin Specter, Philadelphia; Craig A. Stone, Harrisburg; Frederick W. Thieman, Pittsburgh **RHODE ISLAND**: Lynette Labinger, Providence **SOUTH CAROLINA**: W. Francis Marion, Jr., Greenville; T. English McCutchen, Columbia; Doug Patrick, Greenville **SOUTH DAKOTA**: Steven M. Johnson, Sioux Falls; Gary P. Thimsen, Sioux Falls **TENNESSEE**: Charles (Charlie) W. Hill, Memphis; Jim Martin, Nashville **VIRGINIA**: Pamela Shell Baskervill, Petersburg; William D. Dolan, III, McLean; Wade W. Massie, Abingdon **WASHINGTON**: Jeffrey I. Tilden, Seattle **WEST VIRGINIA**: John W. Cooper, Parsons; A. L. Emch, Charleston **ATLANTIC PROVINCES**: John P. Barry, Q.C., Saint John; John Merrick, Halifax **ONTARIO**: J. Bruce Carr-Harris, Ottawa; Philip M. Epstein, Q.C., LSM, Toronto; James A. Hodgson, Toronto; Trisha Jackson, Toronto; Tony Kelly, Q.C., Toronto; John T. Morin, Q.C., Toronto □

2001

March 21-24

National Trial
Competition
Dallas, TX

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

May 10-12

KY, MI, OH, TN Regional Meeting
The Peabody Hotel
Memphis, TN

June 15-17

New England Regional Meeting
Balsams Hotel
Dixville, Notch, NH

July 29-31

Northwest Regional
Meeting
Grouse Mountain Lodge
Whitefish, MT

August 3-4

Iowa Fellows Weekend
Village East
Okoboji, IA

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

October 13-16

Board of Regents Meeting
The Waldorf-Astoria
New York, NY

Immediate Past President's Report

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Coats. That committee decided that the College should employ highly skilled professional writers to research and write a definitive history of the College. The Board of Regents ultimately approved the committee's recommendation and after an interviewing process, engaged Marion A. Ellis and Howard E. Covington, Jr. to research and prepare the College's history. Every registrant in Washington, D.C. received a copy of *Sages of Their Craft*, the history of our first 50 years. *Sages* is not just the story of the College, it is the 20th century history of the United States trial bar. Many of the founders of the College were born in the 19th century, began practice in the 1920s and remained in active practice into the 1960s and 70s; their stories, and a record of their commitment to the highest ideals of our practice, are woven through the *Sages* narrative.

Our thanks for the preparation of *Sages of Their Craft* extends beyond the efforts of the History Committee, and in fact, beyond the work of the College itself. *Sages* was published by the West Group at no expense to the College. The College is profoundly grateful to Dwight Opperman, Chief Executive of the West Publishing Company, for his commitment to publish our history. We are likewise indebted to the West Group, the successor company to West Publishing, which not only honored Mr. Opperman's commitment, but agreed to increase the number of copies printed to allow us to distribute the history to every current Fellow and to inductees for many years into the future. Following the

Washington, D.C. meeting, copies of *Sages of Their Craft* were mailed to all of our Fellows; I know you will read it with interest.

Anglo-American Exchange

Last year, the College sponsored the 7th Anglo-American Exchange for judges and lawyers from the United States and the United Kingdom. The Exchange, which began in 1973 and is one of the most important of the College-supported activities, met in Edinburgh and London in the Fall of 1999, and in Washington, D.C. in early September, 2000. This program has contributed immeasurably to the dialogue between two great common law countries and, of course, created a model for U.S./Canadian exchanges, and for exchanges between the U.S. and India. Our most recent Anglo-American Exchange was planned by Past Presidents Ed Brodsky and Ozzie Ayscue. The U.S. delegation was led by Justices Anthony Kennedy and Clarence Thomas; the English representatives were led by Senior Law Lord Bingham and Lord Chief Justice Harry Woolf. Both teams included additional judges, lawyers and barristers who contributed greatly to the substance of the program.

Canadian Code of Trial Conduct.

Thanks to the work of our Canadian-United States Committee, we have published the Canadian Code of Trial Conduct, a version of the American Code of Trial Conduct amended for Canadian law, custom, and practice. We were very pleased to have persuaded our Honorary Fellow and the then-Chief Justice of

Canada, The Right Honourable Antonio Lamer, to write an introduction of the Code. Our Canadian Fellows believe that the new Canadian Code is an important statement by the College on the relationships between and among the advocate, the courts, and adversary parties in litigation. The Canadian Code of Trial Practice, in both English and French, is now part of our roster. Our Fellows in Canada plan special efforts to present the Code to Canadian law schools to encourage Canadian law students to familiarize themselves with the standards that we advocate for the conduct of trial practice.

Recognition of Pro Bono Efforts.

Several years ago the College engaged in a long-range planning process to refine our approach to our mission of maintaining and improving our standard of trial practice, the administration of justice, and the efforts of our profession. The Access to Justice Committee was created as a result of that effort. During the last year, the Board of Regents voted to recognize Fellows of the College who had contributed significant *pro bono* services under the aegis of the College's Access to Justice plan. As part of our meeting in Hawaii, we honored New York Fellows David Brodsky, Thomas Cumin, Frank Wohl, and Rod Lanken for their *pro bono* representation in important public policy cases in New York State. We are also pleased that another of our fellows, Alan Levine of New York, is counsel in a *pro bono* case that has been accepted by the U.S. Supreme Court for argument this term. The basic premise of the Access to Justice Committee is that

(Continued on page 21)

Immediate Past President's Report

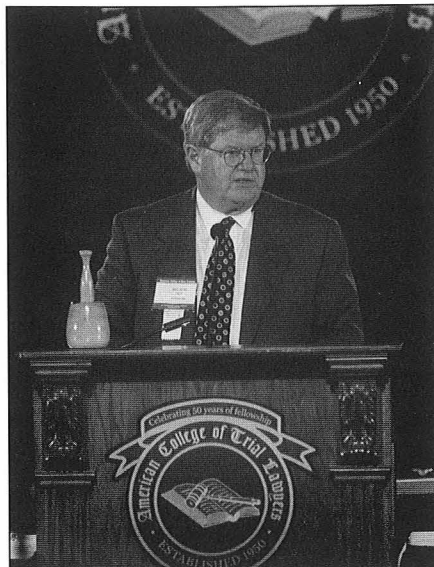
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lawyers of the stature of Fellows the American College of Trial Lawyers can make real contributions in important *pro bono* cases and in their respective states and provinces. Under the able leadership of Dan Kolb, and with the cooperation of our state chairs, the committee is striving to extend its *pro bono* program to other states.

Federal Civil Procedure Committee

For over 20 years the College has advocated amendment of the portion of the Federal Rules of Civil Procedure governing discovery. It has been our goal to narrow the current scope of discovery from all information relating to "subject matter involved in a pending action" to information concerning "the claims or defenses" raised by the litigants to a given lawsuit. In 1996, our Federal Civil Procedure Committee resubmitted its proposal on this issue to the Advisory Committee of the Judicial Conference. In a major victory for proponents of the College's viewpoint, in 1998, the College – through the committee – submitted a monograph to the Advisory Committee. This resulted in recommendations from both the Advisory and Standing Committees of the Judicial Conference favoring amendment to the rules to include the substance of the College's proposal for changes in Rule 26. In September of 1999, the full Judicial Conference adopted the change in Rule 26, with the caveat that the judiciary could order broader discovery for "good cause shown." The Supreme Court adopted the proposal,

and on May 1, 2000, pursuant to the Rules National Act, the Court sent the change to Congress. Barring action by Congress opposing the modified rule, the new rule, including more limited discovery parameters, will become effective in December of this year. This discovery change



President Michael E. Mone welcomes more than 1300 Fellows and spouses to the 50th Anniversary meeting of the College.

would not have been adopted without the work of the Federal Civil Procedure Committee, chaired by Bob Campbell of Salt Lake City. The College is indebted to Bob and to the Committee for their advocacy of this change in the Federal Rules.

Trial Advocacy Education

I cannot close this report without mentioning my enthusiasm for the College's involvement and interest in the teaching of trial advocacy in our law schools. As President, I was given the opportunity to participate in national trial and moot court com-

petitions in the United States and Canada, both of which are sponsored by the College. I thoroughly enjoyed the experience. Joining the bar of the City of New York in sponsoring the National Moot Court Competition, and the Young Lawyers of Texas in sponsoring the National Trial Competition, the College recognizes that trial lawyers are not born to their skills, but that we are the product of thoughtful training in the skills that trial practice demands.

The College encourages the teaching of trial practice not just by its cultivating students of trial law through sponsorship of the moot court and trial competitions, but by recognizing and honoring the educators that help promote excellence in our field. The College's Emil Gumpert Award, named for our Chancellor and Founder, recognizes a law school's excellence in the teaching of trial and appellate advocacy with a plaque and – more tangibly – a \$50,000 stipend. I had the pleasure in early September of visiting Wake Forest University Law School to present the Gumpert Award to Dean Robert Walsh in recognition of Wake Forest's extraordinary trial advocacy program. As the number of Wake Forest alumni on our roster of Fellows attests, Wake Forest Law School has the reputation of producing wonderful trial lawyers. Certainly, Wake Forest deserves recognition for its ability to teach its students the practical skills of lawyering, but it is the values that the law school fosters that earned Wake Forest the Gumpert Award recognition. The future of our society, based as it is on the rule of law, begins in our law schools. My experience at Wake

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Immediate Past President's Report

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Forest, in New York and Dallas at the respective U.S. competitions, and in Canada – where the college is a sponsor of the Gale Cup and was instrumental in the creation of the Sopinka Cup – has left me confident that students are receiving a background in advocacy skills that will serve them, and the rest of society, well when they leave law school.

I want to thank Earl Silbert, Stu Shanor, Warren Lightfoot, and Ozzie Ayscue, who have served with me as officers in this 50th year. They have been extraordinarily supportive and have been uncannily adept at preventing me from making more than the usual number of missteps during my tenure as President. In Earl's and Stu's hands, the future of the College is secure.

At the outset of this year, I did not imagine the number of people to whom I would owe a debt of thanks by year's end. Space limitations prevent me from making a full accounting, but let me begin by saying that I am extremely grateful to Bob Young and his colleagues, the small but extremely dedicated group of people who run the College. Bob deserves credit and congratulations for having selected staff members Suzanne Tavares, Natalie DeWitt, Susan Emens, and Kathy Good; together, this group represents the very best staff that any organization has ever had. Despite my personal regard for the College and its Fellows, I must concede that even under the best of circumstances, dealing with trial lawyers is a task akin to herding cats; difficult and often thankless. Fortu-

nately for us, nobody is more prepared to handle the challenges of our organization than is Bob Young.

I thank my secretary, Ruth Gommelka, who for two years has performed the nearly impossible task of getting me to the right places at the right times, and who, against all odds, has made sure that I have completed all of the myriad tasks required of the President.

Finally, for the last year, as in the 35 years before, everything that I did included the help and support of my wife, Margie. I save my last thanks for her.

Another Past President of the College observed that the good and bad part of the job is that it only lasts a year. The truth of that statement has become apparent to me. The past year has literally flown by with meetings and visits with Fellows all over the United States and Canada. It has been a wonderful honor to serve as your President, but it's time to pass on the office to Earl Silbert of Washington, who will serve as the first president of our second half-century. It is almost unnecessary to add that I do so with complete confidence.

As a past President, I look forward to participating gently in the future of the College. The College is unique in its view that the contributions that the past Presidents contribute to this organization's vitality. Before serving this past year, I appreciated the Presidents who came before me as both the conscience and historical memory of an enduring fellowship, and I hope to make my own contribution in this way. This historical function is an important one. The College survives for and as a result of its commitment to Emil Gumpert's vision of the importance

of recognizing those at the pinnacle of the American and Canadian trial bars, and his view of the responsibility our abilities confer on us, in order to preserve this vision for the future, that we must appreciate the contributions of those who came before us.

In leaving the presidency and rejoining the ACTL community in another capacity, I remind you of the losses we have suffered this year. For their love of our work, and for their fine personal qualities, we will miss Joe Ball, Morris Harrell, and Ed Brodsky, each of whom died in the course of the last year. We will not forget their contributions to the College or their friendships with us.

In 50 years, the United States and Canada will be democracies; they will have an independent judiciary and an independent trial bar. The outstanding members of the trial bar of our two countries will still aspire to being Fellows of the American College of Trial Lawyers and will look upon election as the ultimate honor in their career. When the 100th president looks back on our history, he or she will be able to say that above all else, Emil Gumpert's vision was an enduring one.

ACTIVITIES OF THE STANDING COMMITTEES OF THE COLLEGE

Please take a moment to note some of the significant committee activities which I have not already touched on:

Admission to Fellowship Committee. Chair Paul Meyer has been working to develop data indicating how the concern about the diminishing number of trials in federal and

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state courts will affect our membership. The committee has also worked with the state committees to encourage active identification of fellowship candidates in practice areas that have not traditionally produced a large number of Fellows, such as employment, family, and intellectual property litigation.

Attorney-Client Privilege Committee. This committee, chaired by David H. Marion, has reviewed the Department of Justice Guidelines for the prosecution of corporations. At particular issue is the effect of corporate funding of defenses for "culpable" employees or agents. The committee has approved and recommended to the Board of Regents opposition to the Department of Justice Guidelines on the grounds that the Guidelines may have the effect of interfering with the right of individuals charged under investigation to obtain qualified counsel. The committee has reported to the Board of Regents that the Department of Justice position could discourage legitimate advancement of fees and permit prosecutors to abuse their authority in order to gain strategic advantage in a criminal investigation.

The Canadian U.S. Committee. In addition to assuring support of the Sopinka Cup Competition and the introduction of the Canadian Code of Trial Conduct, this committee, chaired by Earl Cherniak, has been working to implement reciprocal enforcement of judgment treaties. This step was recommended by the Board of Regents at our London meeting in

the Fall of 1998. The committee is working to gain the cooperation of the Canadian and American Bar Associations to secure governmental action on the proposed treaty. Additional projects included developing a joint program with the International Committee and working on other cross-border issues.

The Complex Litigation Committee. Under Ralph Brenner of Philadelphia, with the able assistance of Larry Hoyle, and in cooperation with the Foundation of the American College of Trial Lawyers, the committee has begun a project to develop a mass tort litigation manual. The committee has undertaken this important project in an attempt to help the judiciary deal with the problems stemming from the volume and complexity of mass tort cases. A law school professor has been employed to act as reporter and a draft of the manual's text has been circulated to judges and law school professors for comments. The committee has also reviewed its project with the Federal Judicial Center, which is working on a revision of the manual on complex litigation.

Committee on Federal Civil Procedure. The committee has submitted a final report on the "Importance of the 12-person Jury in the Federal Courts" to the Board of Regents. The College has historically supported 12-person juries in federal civil trials; the committee has written and submitted to the Board of Regents an important analysis of the wisdom of returning to that practice.

Federal Criminal Procedure Committee. Chair Jack Cooney and his committee are working on a final

draft of amendments to the federal sentencing guidelines, and have prepared and submitted to the Board of Regents a report on modification to the "relevant conduct" provision of the guidelines. This, the second report from the committee on the sentencing guidelines, represents an enormous committee effort to address inequities under the present sentencing guidelines.

International Committee. The International Committee, reconstituted to include the Mexico Committee, has been working on three major projects under the chairmanship of Mark Alcott of New York. First, the Committee is examining the question of whether international tribunals, like the War Crimes Tribunal, afford a competent and fair forum to dispose of issues like those raised in the Pinochet case, or whether domestic tribunals would constitute the more appropriate setting for determination of these matters. As part of its analysis, the committee plans to assess from the perspective of the trial lawyer the War Crimes Tribunal's independence and the fairness of its process. The committee will then make such recommendations as may be appropriate to modify the jurisdiction or procedures of such international tribunals through treaty or convention, and/or to amend the U.S. or Canadian extradition laws.

Second, the committee is examining the international litigation issues that arise out of the use of the Internet. These include, in particular, the unique issues of jurisdiction and choice of law that arise from wireless communication across national borders. The committee will prepare a monograph analyzing these prob-

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lems and, if appropriate, will propose a solution in the form of a treaty, legislation or model commercial contract.

Third, the committee is developing a demonstrative CLE program to be presented at one of the College's semi-annual meetings. One idea under consideration is a demonstration of how a trial lawyer handles the problems that arise in representing a foreign corporation before an American jury. Another possibility is a comparison of how a hypothetical case would be argued before American, Canadian and English courts. The committee expects to finalize this proposal this fall, and then develop a program to be presented in 2001.

Judiciary Committee. Addressing the issue of federal judicial compensation as a means of attracting and retaining qualified judges, the committee is working to assure that federal

salaries keep pace with the cost of living. The committee is also monitoring attempts to create a solution to the problem of campaign fundraising and state judicial elections. The ever-increasing sums of money spent in contested state judicial elections represents a significant challenge to the concept of an independent judiciary and the committee, as well as others, are monitoring this problem to see if a solution within constitutional bounds can be developed.

Legal Ethics Committee. The Legal Ethics Committee is closely monitoring the ABA's Ethics 2000 Commission, which is working on changes to the ABA Model Rules of Professional Conduct. The College has historically strongly opposed change in ethical restraints on client confidentiality, erosion of the attorney/client privilege, and the attempt to turn lawyers into whistleblowers. The committee is attempting to develop a position that deals with the fact that many states have already adopted some version of whistleblowing rules on attorney/client fraud despite the

opposition of the ABA and the College.

Special Problems in the Administration of Justice. The committee expects to report at the Washington meeting on a survey of all U.S. Fellows regarding jury trial innovations. The survey was mailed to Fellows last summer and the committee is pleased that there has been a 25% response to questions on jury trial innovations such as note taking, jury questions, interim summations, etc. With Ed Mullens as Chair, the committee expects to evaluate the survey data and recommend to the Board of Regents on jury trial innovations. □

Michael E. Mone

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ACTL Fellows Appointed To The Bench

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

Hon. Robert J. Baron of Joilet, Illinois has been appointed Associate Judge of the Circuit Court of Will County, State of Illinois.

Hon. William D. Browning of Tucson, Arizona was recently appointed Senior United States District Judge.

Justice Tom Chambers was recently elected to the Washington State Supreme Court, Olympia, Washington.

Hon. James C. Fuller of Raleigh, North Carolina has been appointed Judge, Court of Appeals of the State of North Carolina.

Hon. Samuel L. Hanson of Minneapolis, Minnesota was recently appointed to the Minnesota Court of Appeals.

Hon. Toby S. Monaco of Gainesville, Florida was recently appointed Circuit Judge in the 8th Judicial Circuit in Florida

Hon. Denis J. Power of Ottawa, Ontario was recently appointed a Judge of the Ontario Superior Court of Justice.

Hon. James A. Teilborg of Phoenix, Arizona was recently appointed United States District Court Judge for the District of Arizona. □

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frew introduced all of the Honorary Fellows in attendance as guests of the College. He also recounted the history of the various legal exchanges that the College has sponsored with other common law countries, describing their value to the participating countries.

The Right Honorable Sir **Andrew Leggatt**, responded for the Honorary Fellows.

Closing this session, President **Mone** noted, "Fifty years from now our countries will be democracies. We will have an independent judiciary and we will have an independent bar. . . . Although the one hundredth president may celebrate our centennial with some kind of virtual reality, that president can say, as I proudly say to you today, and say to **Emil Gumpert**, 'Your vision has endured, and it will endure,' and, in the words of the charge, 'Long and happy may be our years together'."

Bell, Reed Address

The State of the Profession

In a Friday program devoted principally to the state of the profession, Past President **Griffin B. Bell**, spoke of the role of the trial lawyer in a changing society. Describing the state of the legal system fifty years ago, Bell highlighted some of the changes in that system that have happened "on our watch."

Bell, a former Federal Judge and Attorney General of the United States, noted the advent of a third branch of the law, "civil punishment," in the form of punitive damages, double and treble damages, RICO, and whistleblower statutes. He described these as having turned

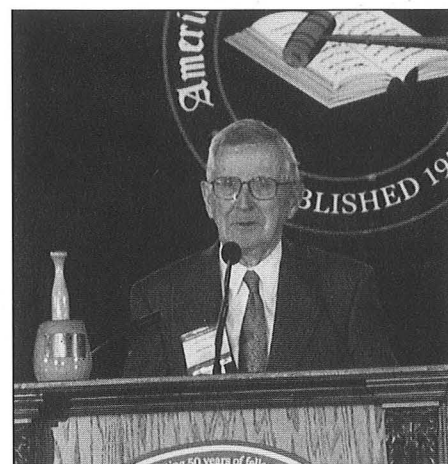
the system into a lottery, with only a few hitting the jackpot. He deplored the adjudication of claims for injury from defective products through a process that is inordinately expensive and in which some are compensated for their injuries and some are not. He asserted that sentencing guidelines have deprived judges of discretion and produced far more prisoners than are necessary.

"Surely," he said, "a nation with more trained trial lawyers than any nation on earth can produce a better result."

Recounting the ways in which the College had made a difference in the past in improving the quality of the trial lawyer and the trial bench and enhancing standards of advocacy and professionalism, he called on the College to address these and other problems.

Professor John W. Reed, for 25 years moderator of the Advocacy Institute at the University of Michigan and a founding member of the ABA's Litigation Section, was the 1985 recipient of the College's Samuel Gates Litigation Award. He entitled his remarks "Believing is Seeing."

Describing what he sees in the profession, he posed the question, "When we see this, what are we led to believe? . . . That lawyers are mere agents of their clients, not their counselors . . . that the bottom line trumps other considerations; that winning is the only thing; that lawyers are losing the personal relationships with their clients; that courts are simply part of the government bureaucracy, mere cogs in the governmental machinery; that deciding disputes quickly is more important than deciding them right; that



Professor John Reed

the jury is at best an unaffordable luxury; that a good lawyer is single-minded about the law and need not be a whole person, and, finally, that values are negotiable."

Pointing out that we tend to believe what we see, he urged his audience to make the law not merely a business, but a true profession; to work to preserve and improve the jury system; to practice law humanely; to fight to preserve the independence of the courts and to be exemplars of civil advocacy.

Lewis F. Powell, Jr. Memorial Lecture

Chief Judge **J. Harvie Wilkinson, III**, of the U.S. Court of Appeals for the Fourth Circuit, delivered the Lewis F. Powell, Jr. Memorial Lecture. Powell, the 20th President of the College, was the 99th justice to sit on the U.S. Supreme Court.

Judge Wilkinson's father, a banker, was a close friend of Justice Powell in Richmond, Virginia. "Lewis Powell was not only like a second father to me," Judge Wilkinson said, "he was also a constant schoolmaster in my childhood."

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Wilkinson, Powell's first law clerk, described how Powell went on the Supreme Court at the age of 64. After his retirement, he spent another seven or eight years during his 80s sitting with the Fourth Circuit Court.

"His work schedule at the Supreme Court was seven days a week during the decade of his seventies. I was in my twenties and I could not keep up. But what happy years they were. Each morning and each evening I drove with the Justice to and from the Supreme Court and I noticed that the conversations in the car were slightly different from those in the family den.

"The weight of his office had made his words more measured. He was astonished, I think, of the closeness of the cases that came before him, and also of their importance. During all these trips he never once snapped at me or raised his voice, even when much was on his mind."

"It is clear to me," he said, "that the Justice is not simply a figure for recollection, for he has as much meaning for the future as he did in the past. . . . [W]hen all is said and done, Lewis Powell's qualities are the absolute best. He combined breadth of experience, firmness of conviction and considerateness of manner to an extent that few other judges ever have or ever will."

A Pro Bono Challenge

Antonia Hernandez, President and General Counsel of the Mexican American Legal Defense and Education Fund (MALDEF) is a graduate of UCLA Law School. She is viewed by many as perhaps the major advocate for the 29 million Latinos in the

United States.

"I went to law school when I didn't know a single lawyer," she said. "I didn't know what lawyers did, but I knew that lawyers played a special role in American society. And I wanted to be a positive role model and a positive force for change."

Hernandez reminded her audience that support for publicly funded legal services programs had diminished significantly and had been restricted to handling noncontroversial matters.

"I must remind you," she stated, "that this country was founded on controversy and challenging the status quo and the vibrancy of our democracy lies in our ability to challenge, to be inclusive, and that is why I think we have reason to worry."

She noted that the average number of hours devoted to pro bono work by lawyers in private practice had fallen by one-third since 1995. "When I go to law firms and ask them for pro bono assistance," she said, "there are associates who, before, would volunteer. Today they think twice because they have to rake in billable hours because they know that's their survival in that world."

Pointing out that the starting salary for MALDEF lawyers is \$33,000 per year, she described the difficulty of recruiting young lawyers. "What we need are scholarships," she said, describing the cooperative fellowship program that the law firm of Fried, Frank, Harris, Shriver & Jacobson has created with MALDEF.

In concluding, she remarked, "It just takes a few to make change, and there is nothing more noble than to make change within the system. That is what lawyers do."

Former White House Chief of

Staff Reflects on Washington Scene

Erskine Bowles, former White House Chief of Staff under President Clinton, was persuaded by the President, whom he had first met in 1992, to leave his investment banking firm to become the Administrator of the U.S. Small Business Administration.

In October 1994 President Clinton asked him to become Deputy White House Chief of Staff to apply his businessman's management skills to reorganize the staff of a White House full of turmoil. Feeling that he had done his job, Bowles left the White House to return home for his son's senior year in high school.

In November of 1996 the President persuaded him to return to Washington as Chief of Staff. "I cannot overemphasize the complexity of the Chief of Staff's job," Bowles said. "[The television show, 'The West Wing'] doesn't accurately portray the velocity of the place. You just can't believe the pace . . . Nor does it accurately project the breadth of issues you deal with, literally on a daily basis. One minute you are working on health care reform, the next minute it is the tax initiative, the next minute it is Bosnia, the next minute it is Iraq, the next minute it is Iran. The next minute it is patient's bill of rights. And, oh - by the way on the side you deal with a little thing called impeachment.

"And it is seven days and seven nights . . . I have never believed you judge productivity by the number of hours you work, but you just can't get it done any quicker. Every night your phone rings and it has already gone through all the deputies and all the Cabinet secretaries and it gets to you. And you have to make that decision or you've got to wake the

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President up. And you try to make most of those decisions so you don't."

Bowles described his decision to isolate the issues raised by investigations, some of which he said "were, candidly, earned," in the White House Counsel's office so that the other 95 % of the White House staff could stay focused on the peoples' business.

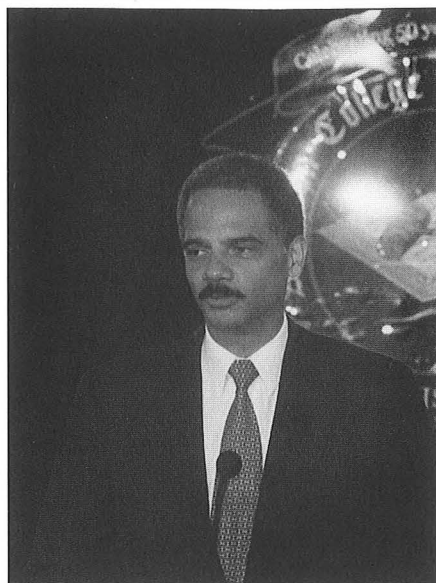
Bowles, who is widely credited with steering through the Congress the first balanced budget in decades, decried the opportunities lost because of the poisoned atmosphere and hardened divisions between the two political parties.

Finally, he expressed both gratitude for the opportunity to serve his country and happiness at being "back in my native habitat in the business world."

A Plea for One America

Eric H. Holder, Jr. is Deputy Attorney General of the United States. An African-American who has attained the highest law enforcement post ever held by a member of his race, he entitled his remarks "The Need for Diversity In The Legal Profession."

Following up on the theme of the July 1999 White House Call to Action for the Legal Profession, in which the then President of the College participated, he observed, "A legal profession lacking in significant racial and gender diversity can only go so far in combating the sense of alienation the disadvantaged clients feel when they are regularly confronted by an establishment of a distinctly different color. For too many people, justifiably or unjustifiably, law is a symbol of exclusion, rather



Eric Holder

than empowerment."

The challenge in the years ahead, he said, "is to employ the immense creativity of the legal profession in our quest for one America . . . This creativity can, and should be, harnessed in the service of the cause of diversity . . . [W]hatever your views on affirmative action, I believe that there are many ways to diversify our own ranks without inflaming the divisive debates that have undermined so many well-intentioned efforts in the past."

Demise of Cultures Decried

Dr. Wade Davis, Explorer in Residence at the National Geographic Society in Washington, D.C., has spent three years in the Amazon and the Andes as a plant explorer, ethno-botanist and photographer, living among 15 tribal groups in eight Latin American nations while making some 6,000 botanical collections.

His work later took him to Haiti to investigate folk preparations implicated in the creation of zombies. This assignment led to his writing of *Pas-sage to Darkness* and *The Serpent in*

the Rainbow, an international best seller that has appeared in 10 languages and was later made into a motion picture.

In his eye-opening presentation, illustrated with slides, he said, "When your parents were born, there were 6,000 languages spoken on earth. Of those 6,000 languages, fully half today are not being taught to school children, which means that effectively they are already dead."

"There are only 300 languages spoken by more than a million people, and linguists tell us that within a century the linguistic diversity of the world may be reduced to as few as 500 languages. Now, when we lose a language we lose the soul of a culture. In the end we end up eroding some part of the repertoire of the human experience. We are literally living through a time where half of humanity's legacy is disappearing before our eyes . . .

"[M]y position at the National Geographic Society is to elevate this notion of the ethnosphere to the same level as biosphere so we can recognize what indeed is going on all around us."

Chief Justices Speak

The 50th Annual Meeting concluded with a panel discussion among **William H. Rehnquist**, Chief Justice of the United States; **Beverly McLachlin**, Chief Justice of Canada; and **Lord Woolf of Barnes**, The Lord Chief Justice of England and Wales. All three are Honorary Fellows of the College.

Walter Dellinger, former Acting Solicitor General, Professor of Constitutional Law at Duke University, and a member of O'Melveny & Myers, moderated the panel discus-

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sion, in which the Justices compared notes on their courts.

Subjects they covered included: the influence of politics on appointments to their courts; the impact on the courts of the backgrounds of the appointees; the appropriateness of nonjudicial assignment of Justices; the relative importance of briefs and oral argument; what makes a good or a bad argument; television in the courts; the decisional process in their courts; collegiality among the Justices; the use of law clerks; the institutional ethic of each court; "making" or "applying" the law; ci-

tation of cases from other countries, and anticipated changes in the role of the courts.

The final banquet honoring the United States Supreme Court was attended by many of the Justices from the United States, Canada and Great Britain.

Lord Thomas Bingham, the Senior Law Lord of England and Wales, toasting our Supreme Court, remarked, "[Your] Supreme Court has brought a remarkable quality of stability and continuity to the life of this nation."

The next national meeting of the College will take place in Boca Raton, Florida March 29 to 31, 2001. □

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